NEW BUSINESS

AGENDA ITEM 15.04
December 13, 2011

To: Mayor and City Council

From: Michael E. Locke, Deputy City Manager/
Interim Community Development Director

Subject: JOINT RESOLUTION OF CITIES, COUNTY, AND OTHER SAN JOAQUIN COUNTY STAKEHOLDERS REGARDING LAND USE, WATER, AND OTHER DELTA RELATED ISSUES

RECOMMENDATION

It is recommended that the City Council adopt a joint resolution in coordination with other cities, the county, and other stakeholders in San Joaquin County in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta) a draft of which is attached hereto as Resolution. It is also recommended that the City Council adopt a motion endorsing the participation of the Mayor and Councilmember Eggman in their representation of the City Council on the San Joaquin County Delta Initiative Coalition and authorizing the Mayor and/or the City Manager, or his designee, as applicable, to execute and transmit to the Delta Stewardship Council a joint stakeholder comment letter (substantially in the form of Attachment A) and separate City comments regarding the Delta Plan Draft Program Environmental Impact Report (DPEIR) and related comments and correspondence concerning the Delta Plan, DPEIR, the Bay Delta Conservation Plan (BDCP), and related Delta plans or programs.

Summary

Staff is requesting that the City Council adopt a joint resolution in coordination with other cities, the county, and other stakeholders in San Joaquin County in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta). In addition, it is requested that the Council adopt a motion endorsing the participation of the Mayor and Councilmember Eggman in their representation of the City Council on the San Joaquin County Delta Initiative Coalition and authorizing the Mayor and/or the City Manager, or his designee, as applicable, to execute and transmit to the Delta Stewardship Council joint stakeholder comments and separate City comments regarding the Delta Plan Draft Program Environmental Impact Report (DPEIR) and related comments and correspondence concerning the Delta Plan, DPEIR, the Bay Delta Conservation Plan (BDCP), and related Delta plans or programs. Specifically, the other San Joaquin County and regional stakeholders include, but are not limited to representatives of the following: San Joaquin County, other County cities within the county, San Joaquin Council of Governments, Port of Stockton, San Joaquin Farm Bureau, Delta Counties Coalition, Delta Protection Commission, reclamation/flood control districts/agencies, water districts/agencies, select non-governmental environmental and resource
conservation organizations, San Joaquin Partnership, Business Council, Building Industry Association of the Delta, and major developers.

The purpose of this request is to facilitate a coordinated and collaborative response, with other affected stakeholders, in opposition to the Delta Stewardship Council’s proposed Draft Delta Plan and corresponding DPEIR, the BDCP, and other related Delta plans or programs that may adversely affect economic development and sustainability in the City of Stockton and San Joaquin County. In addition to a joint stakeholder comment letter, staff will prepare a more specific City of Stockton comment letter regarding the DPEIR. A preliminary draft of a joint stakeholder comment letter expressing our shared concerns and overarching issues regarding the Delta Plan DPEIR has been prepared for the Council’s consideration and endorsement (Attachment A). A more detailed City of Stockton letter will be prepared in the next few weeks. The DPEIR public review period was recently extended from 60 days to 90 days, ending on February 2, 2012.

While it is not ready for Council consideration on this agenda, staff will be bringing forward to the Council in January an opportunity to participate in a concerted advocacy effort aimed at communicating to the state legislature and the region’s federal legislative delegation vital information regarding the interests of this broad coalition of Delta stakeholders, and potentially facilitating future legislation. This effort will involve the retention of an advocate for this purpose, likely by the City, with the financial burden of that retention and the ensuing advocacy effort shared amongst the stakeholders.

DISCUSSION

Background

In November 2009, the California Legislature enacted Senate Bill X7 1 (The Delta Reform Act). It established the Delta Stewardship Council (DSC), an independent State agency, and requires that the DSC develop, adopt, and implement by January 1, 2012 the Delta Plan, a legally enforceable, comprehensive, long-term management plan for the Sacramento–San Joaquin Delta and the Suisun Marsh (Delta) that achieves the “coequal goals” as specified in California Water Code Section 85300(a). The coequal goals are the two goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place’ (Water Code section 85054). Achieving the coequal goals is a primary and fundamental purpose of the Delta Plan. The DSC has issued several staff drafts of the Delta Plan, the most recent being the Fifth Staff Draft, which is the “project” or “program” analyzed in the recently released Draft Program Environmental Impact Report for the Delta Plan.
The Fifth Staff Draft Delta Plan generally covers five topic areas and goals: increased water supply reliability, restoration of the Delta ecosystem, improved water quality, reduced risks of flooding in the Delta, and protection and enhancement of the Delta as an evolving place. Although the DSC, through the Delta Plan, does not propose or contemplate constructing, owning, or operating any facilities related to these five topic areas, the Delta Plan sets forth regulatory policies, and recommendations, that seek to influence the actions, activities and projects of cities, counties, State, federal, regional, and other local agencies toward meeting the goals in the five topic areas. In other words, local public agencies such as the City of Stockton will be required to conform their actions to the policies in the Delta Plan and to the regulatory and appeal procedures established to implement the Plan.

City staff has monitored the development of the draft Delta Plan and provided comments and coordinated with San Joaquin County, the Port of Stockton, and other affected parties. The most recent City comments regarding the Fifth Staff Draft Delta Plan were submitted on September 29, 2011 and, on the same date, the City and San Joaquin County submitted a joint cover letter to express our mutual concerns (see Attachments B and C). The City and other agencies are concerned with the scope and extent of proposed regulatory and review authority that the DSC is considering for adoption. The City continues to encourage that the DSC create a Delta Plan that helps achieve California's coequal goals of providing reliable water supplies and restoring the Delta habitat while recognizing and protecting the Delta as a place where people work and live. The proposed Delta Plan, in its current form, continues to threaten the ability of local communities to grow and prosper, takes away local decision making, and provides an appointed body with the authority to veto local land use and other decisions based upon subjective criteria. A summary of the City's concerns is provided in a document entitled “City of Stockton Talking Points Re: 5th Draft Delta Plan” (Attachment D).

City staff have conducted periodic coordination meetings with representatives of San Joaquin County and the Port of Stockton and have more recently assisted the Mayor in the establishment and coordination of stakeholder meetings to facilitate a collaborative and uniform effort to address our mutual concerns with the proposed adoption and implementation of the Delta Plan, the Program EIR, and with related Delta plans and programs, such as the Bay Delta Conservation Plan (BDCP). Presently, the stakeholder group is preliminarily known as the “San Joaquin County Delta Initiative Coalition Stakeholders”. Currently, the stakeholders include representatives of the City of Stockton (including the Mayor, Councilmember Eggman, and City staff), representatives of San Joaquin County (including Board of Supervisors Chairman Larry Ruhstaller and County staff), the City of Tracy, City of Ripon (including Mayor Elden “Red” Nutt), City of Lodi (including Mayor Bob Johnson), City of Escalon (including
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Mayor Daniel "Danny" Fox, San Joaquin Council of Governments, Port of Stockton, San Joaquin Farm Bureau, non-governmental environmental and resource conservation organizations (Restore the Delta and CA Sportfishing Protection Alliance), and representatives of the Delta Protection Commission, Central Delta Water Agency, Business Council Inc. of San Joaquin County, Building Industry Association of the Delta, AG Spanos Companies, and the Grupe Company. The intent is to expand this group to include other affected San Joaquin County cities and interested parties with mutual concerns to improve our negotiating position with the DSC and with legislators in Sacramento and Washington, D.C.

On July 19, 2011, the City Council held a Study Session, where City staff made a preliminary presentation regarding the Third Staff Draft Delta Plan. Since that date, staff made similar updated presentations on October 6, 2011 to the City’s Development Oversight Commission and on November 10, 2011 to the Business Council of San Joaquin County. It is now time to update, engage, and confirm the support of the full City Council on pending, and future developments concerning the Delta Plan, the Program EIR, and on planned coordination and advocacy efforts.

Present Situation

On November 4, 2011, the DSC released a 2,200 page Draft Program Environmental Impact Report for the Delta Plan (DPEIR) and established a 60-day public review period. On November 8, 2011, the City submitted a letter requesting that the review period be extended an additional 90 days, to April 2, 2011 (Attachment E). However, at their meeting on November 17, 2011, the DSC only extended the public review period by an additional 30 days, ending on February 2, 2012.

City staff members are in the process of reviewing the DPEIR and are coordinating our efforts with the aforementioned stakeholder group to develop both a detailed City of Stockton comment letter as well as to finalize the above-referenced separate joint stakeholder comment letter expressing our shared concerns and overarching issues regarding the DPEIR. Those letters will be submitted on or prior to the February 2, 2012 deadline.

Staff is requesting that the City Council adopt the above-referenced joint resolution in coordination with other stakeholders in San Joaquin County in support of an initiative for joint action, advocacy, and mutual interests on issues concerning the Sacramento-San Joaquin River Delta (Delta). In addition, it is requested that the Council adopt a motion endorsing the participation of the Mayor and Councilmember Eggman in their representation of the City Council on the San Joaquin County Delta Initiative Coalition and authorizing the Mayor and/or the City Manager, or his designee, as applicable, to execute and transmit to the Delta Stewardship Council joint stakeholder comments and
separate City comments regarding the Delta Plan Draft Program Environmental Impact Report (DPEIR) and related comments and correspondence concerning the Delta Plan, DPEIR, the Bay Delta Conservation Plan (BDCP), and related Delta plans or programs.

Staff will periodically update the City Council as significant developments occur and as further direction is necessary.

FINANCIAL SUMMARY

There will be no fiscal impact to City departments resulting from this authorization. However, at a future meeting the Council will be given the opportunity to decide whether to participate in the stakeholder advocacy effort, which would require some financial commitment likely from Wastewater and Water Fund resources. There would be no direct impact on the General Fund.

Respectfully Submitted,

MICHAEL E. LOCKE
DEPUTY CITY MANAGER/
INTERIM COMMUNITY DEVELOPMENT DIRECTOR

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Attachment B - City Comments to DSC on Fifth Staff Draft Delta Plan, dated September 29, 2011

Attachment C - City of Stockton/San Joaquin County Joint Comment Letter to DSC, dated September 29, 2011

Attachment D - City of Stockton Talking Points Re: 5th Draft Delta Plan

Attachment E - City of Stockton Request for Time Extension to Review Period on Draft Program Environmental Impact Report for the Delta Plan (DPEIR), dated November 8, 2011
ATTACHMENT A

PRELIMINARY DRAFT JOINT STAKEHOLDER COMMENT LETTER TO THE DELTA STEWARDSHIP COUNCIL RE: DELTA PLAN DRAFT PROGRAM ENVIRONMENTAL IMPACT REPORT (DPEIR)

This letter is being submitted on behalf of the undersigned to express our continued concern with the content of the Draft Delta Plan and with the Draft Environmental Impact Report (Draft EIR) specifically.

While we recognize the challenges that result from the short timeframe provided by the Legislature for completing a Delta Plan, the Draft EIR does not provide the public with a good understanding of what the proposed Project is, what the impacts of the proposed Project will be, or how mitigation measures will reduce any impacts that result. The analysis of affected environments and impacts from Delta Plan policies and recommendations is incomplete and unclear, and the structure of the document appears to be a post hoc rationalization for approving the Delta Plan as currently drafted. The 90 days that the Council has provided for public comment is also woefully inadequate, particularly when the comment period spans two holiday periods, a time when many government agencies are shuttered as a result of budget cuts.

Most fundamentally, the Project Description is incomplete and does not provide the reader with an adequate understanding of what the Delta Plan is intended to do. While the Draft EIR identifies “regulatory policies” and “non-binding recommendations” as comprising the proposed Project, the Draft EIR downplays the Plan’s real-world impact. For example, the Draft EIR suggests that the policies and recommendations “are statements of policy direction to other agencies which, if the direction is followed, could lead to other types of specific physical action.” (Draft EIR, p. ES-2.) These vague statements ignore the fact that Plan policies are likely to become mandatory for any agency seeking to approve a project that falls within the Council’s “Covered Actions” process. Mandatory compliance with many of the Plan policies could lead to far-reaching prohibitions on development, agriculture, and economic activity throughout the Delta, with significant environmental impacts. By failing to adequately describe the scope and reach of the Plan, the Project Description ensures the EIR will omit consideration of many potential impacts. General statements in the Project Description also call into question the actual effect or intended effect of “recommendations” in the Delta Plan. The environmental analysis should identify and fully analyze impacts associated with each proposed policy, and each recommendation as applicable.

In this vein, the Draft EIR does not adequately discuss the impact of incorporating the Bay Delta Conservation Plan (BDCP) into the Delta Plan. We understand that, should the BDCP meet certain statutory criteria, the BDCP will
be "incorporated" into the Delta Plan. In that event, it appears that any covered action would need to be consistent with the BDCP. The Draft EIR fails to address the impacts of imposing the substance of the BDCP on third parties, through the Council's consistency determinations for covered actions. Both the Delta Plan and Draft EIR must fully disclose the impact of incorporating the BDCP into the Delta Plan and how that incorporation could impact third parties, entities that have not voluntarily participated in the BDCP and who will not have any "regulatory assurances" as a result of the approval of the BDCP.

The Draft EIR's analysis of impacts to water resources and to utilities and service systems does not provide an appropriate description of water diverted and used within the areas of origin and fails to discuss the impact of the prohibitory provisions contained in the Delta Plan regarding the appropriation and use of water. While the statutes creating the Council and directing the preparation of a Delta Plan expressly recognize the protections provided by the various area of origin laws, these important protections are largely ignored by the Delta Plan and Draft EIR. In this regard, both the Delta Plan and Draft EIR are defective.

The Draft EIR's discussion of alternatives is also inadequate. The only alternatives discussed in the Draft EIR do not appear to meet the stated project objectives. As such, the alternatives appear to be nothing but strawmen, selected and discussed in a way that would assure their failure. The EIR's failure to consider viable alternatives mirrors the Council's continued failure to consider modifications to the Draft Delta Plan, despite the many public comments to this effect.

Individually, the undersigned will provide the Council with specific comments on the Delta Plan and Draft EIR. The significant flaws identified above raise concerns that we share collectively. We look forward to the opportunity to review a revised Draft EIR that addresses both the significant concerns raised herein and the comments we will submit individually.
September 29, 2011

Phil Isenberg, Chairman
Council Members
Delta Stewardship Council
Attn: P. Joseph Grindstaff, Executive Officer
980 Ninth Street, Suite 1500
Sacramento, California 95814

CITY OF STOCKTON COMMENTS ON THE DELTA PLAN – FIFTH STAFF DRAFT

The City of Stockton (City) appreciates the opportunity to review and comment on the Fifth Staff Draft Delta Plan (Draft Plan), which will serve as the basis for the draft Environmental Impact Report (EIR) for the adoption of the final Delta Plan. The City will provide more detailed comments as the Delta Plan progresses, and will have specific comments regarding the potential environmental impacts of the Delta Plan as part of the California Environmental Quality Act (CEQA) process.

The Delta Stewardship Council (DSC) has circulated several iterations of a draft Delta Plan, receiving comments and suggestions for revisions to the various drafts. As the largest urban area in the Delta, the governance provisions as well as the economic and fiscal impacts of the Draft Plan are of critical concern to the City. The City's concerns with the Draft Plan include general concerns and specific concerns. Below, we outline some of our general concerns, provide a broader discussion of how the Draft Plan impacts the Delta as a place, and address a few specific concerns arising from the policies and recommendations contained in the Draft Plan.

The following comments summarize the City's general concerns with the existing content of the Draft Plan and lists key recommendations:

- Over 50 percent (21,256 acres) of the City's incorporated urban area and an additional 7,932 acres within the City's Sphere of Influence are located within the Secondary or Primary Zones of the Delta (see attached Exhibit 1). All development within these boundaries must be consistent with the City's adopted 2035 General Plan, Infrastructure Master Plans, and the Local Agency Formation Commission's adopted Sphere Plan and
Municipal Service Review for the City. A comprehensive Environmental Impact Report, which was in full compliance with CEQA, and certified on December 11, 2007, and for which a Notice of Determination was filed on December 12, 2007, addressed those approved plans. As there are still discretionary approvals required for some projects contemplated by these approved plans, the Delta Plan, as currently drafted, could act as a de facto reversal of the prior approvals and indirectly usurp the City's existing land use authority within the areas covered by the Delta Plan. The Delta Plan certainly cannot retroactively invalidate otherwise lawfully adopted plans and should be revised to eliminate the potential conflicts with existing adopted plans.

- The effect of the Delta Plan must not be to stifle progress in existing urban areas or prevent orderly and carefully planned growth. The Draft Plan should consider more carefully the application of "consistency determinations" as applied to urban areas within the Secondary Zone of the Delta and should be revised to exempt planned urban development within the incorporated City limits and the City's adopted Sphere of Influence, which is defined as of the effective date of the Delta Plan.

- The definition of "project" should mirror the definition of "project" in CEQA, including all of the exemptions recognized by CEQA.

- All levee improvements and any other flood control projects should be exempt from the consistency determination process.

- Urban development within existing planning areas, located behind levees that meet current federal standards, should be considered consistent with the Delta Plan.

- Any improvements to existing public facilities should not be covered actions, particularly those required by regulatory agencies. For example, anticipated upgrades to the City's Regional Wastewater Control Facility (RWCF) to meet state water quality requirements should not be a covered action.

- As the Delta Independent Science Board has stated, there is no broadly accepted objective methodology for prioritizing stressors. The Council has no mechanism to assess fair and equitable stressor fees.

- Pollutant loading fees for constituents discharged under limits established by permits issued by the Regional Water Quality Control Board duplicate existing discharge fees, usurp the authority of the Regional Board, and most importantly ignores that municipalities incur tremendous costs to comply with water quality standards adopted for protection of beneficial
uses. Accordingly, no such pollutant loading fees should be assessed or recommended by the Delta Stewardship Council.

- The Delta Plan should address economic sustainability impacts within the Secondary Zone of the Delta, particularly in urban areas like Stockton and the Port of Stockton. The Economic Sustainability Plan prepared by the Delta Protection Commission (DPC), as input to the Draft Delta Plan, focuses solely on the Primary Zone and does not address the economic impacts within the Secondary Zone of the Delta.

- The Delta Plan must not be developed, drafted, or implemented in a way that would undermine the current protections for the areas of origin, as codified in California Water Code, Section 11460. The Delta Plan cannot be used to prohibit water users within the areas of origin from continuing to put water to reasonable and beneficial use. The Delta Stewardship Council does not have authority over the diversion and use of water, and the determination of whether existing or future diversion and/or use of water complies with state law currently rests with the State Water Resources Control Board. The Delta Plan must not alter this regulatory framework.

- The Delta Plan should not use the “assessed value” of Delta lands as a measure of “worth.” Instead, the Delta Plan must recognize the significant importance of the continued vitality of Delta agriculture, including its economic multiplier effect, and its contribution to maintaining an adequate food supply for people throughout the state and country.

I. IMPACT OF DELTA PLAN ON LOCAL COMMUNITIES

At this juncture, and given the status of the Delta Plan and commencement of CEQA review, the City believes that this is a good opportunity to pause and review the Draft Plan overall; including as it relates to governance generally and its impact on the “Delta as a place.” A revisit to these overarching themes helps to place the specifics of the Delta Plan in context and allows for a more thoughtful consideration of the policies and recommendations contained in the Plan as they relate to the coequal goals and Delta as a place.

A. Local Governance and the Delta As A Place

The Delta Plan will likely have the most impact on local and regional government agencies in and around the Delta through its implementation, which is the subject of Chapter 3. Chapter 3 includes a discussion of “Covered Actions” and consistency findings, which would apply to many actions taken by local agencies on matters
addressed by the Delta Plan. Indeed, the most likely cause of conflict over the implementation of the Delta Plan is the tension created by subjecting the decision-making authority of local governments to the strict, and frequently subjective, requirements of the Delta Plan as well as the oversight by the Delta Stewardship Council.

The development and implementation of the Delta Plan, including determining the consistency of covered actions must be done in a way that does not adversely affect the "Delta as an evolving place." Indeed, the entire exercise of preparing the Delta Plan is geared towards achieving the "coequal goals," which are defined as:

the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. (Wat. Code, § 85054 (emphasis added).)

Meeting the coequal goals, while recognizing the values of the Delta as an evolving place, applies equally throughout the Delta – not just to sparsely populated areas. Potential conflict exists where local governments continue to engage in activities and approve projects essential to the economic and social well-being of the people of the Delta. Those activities may potentially be at risk due to the Draft Plan as proposed.

The question then, is how far can and will the Delta Plan reach into local sovereignty and what types of activities and/or projects can potentially be "prohibited" by the implementation of the Delta Plan through application of the DSC's "consistency" determinations?

B. Covered Actions

The City continues to have serious concerns about the Draft Plan's definition and treatment of "covered actions." Whether a particular action by the City is a covered action has significant policy, legal, financial, and practical consequences to the City, its residents, businesses, property owners, and developers. As drafted, the plan appears to exceed the Legislature's intent with regard to covered actions, and in doing so overreaches, duplicates provisions of existing law, and subjects even previously approved development to a cumbersome, time consuming, uncertain layer of administrative, and potential judicial review.

Water Code section 85225 provides that:

[a] state or local public agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, shall prepare a written certification of
consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the council.

"Covered actions" are defined as plans, programs, or projects\(^1\), that meet all of the following conditions:

1. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh.

2. Will be carried out, approved, or funded by the state or a local public agency.

3. Is covered by one or more provisions of the Delta Plan.

4. Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.

(Water Code, § 85057.5(a).) Water Code section 85057.5, subdivision (b) contains various exceptions to plans, programs, or projects that are, by definition, not “covered actions” under the Delta Plan.

Chapter 3 of the Draft Plan touches on the concept of “covered actions” and begins to address how covered actions will ultimately be measured against the Delta Plan. Again, Water Code section 85057.5 requires, among other things, that in order to be a covered action, a plan, program, or project must be “covered by one or more provisions of the Delta Plan.” The Draft Plan at page 57, lines 27-28, clarifies that being “covered by one or more provision” means that one of the policies contained in the Delta Plan must be applicable to the proposed project. In other words, only where no policies are implicated by a proposed project is the project not a covered action.\(^2\)

While the concept of determining consistency with the specific policies in the Delta Plan appears straightforward, Policy G P1 appears to provide for a much more

\(^1\) “Project,” for the purpose of the Delta Plan, has the same meaning as the use of that term for CEQA purposes.

\(^2\) The Draft Plan uses the terms “policies” in certain places and the concepts of “coequal goals” and “inherent objectives” in others. It is unclear whether, in order to demonstrate “consistency,” an approving agency must demonstrate consistency with policies contained in the Delta Plan, or whether the approving agency must demonstrate consistency with the more vague concepts of “coequal goals” and “inherent objectives” of the Delta Plan. It should also go without saying that, in order to be “consistent” with the Delta Plan, a project must not jeopardize or degrade the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
subjective standard. Policy G P1 discusses consistency not only with the policies contained in the Delta Plan, but also with the "coequal goals" and "inherent objectives," however they may be defined. This loose language appears to subject covered actions to a much more subjective review by the Council – a process by which local agencies might not now how some "inherent objective" will be interpreted when an appeal is filed. Delta Plan policies must be drafted in a way that works towards attaining the coequal goals and the "inherent objectives." Where a local agency is required to make consistency findings, those findings must be based on specific policies articulated in the Delta Plan – not on vague concepts applied subjectively.

While there is some implicit recognition that "covered actions" might occur outside the Delta, the real and practical effect of implementing the Delta Plan will be that the majority of "covered actions" will consist of projects approved by local government agencies – those agencies with primary land use and other approval authority in the Delta. It is these local government agencies that will shoulder the significant added burden and cost associated with this new administrative requirement. However, the Draft Plan’s potential impact extends much farther than delays and increased cost in the approval of future development. As discussed below, the proposed Delta Plan goes so far as to reopen projects that are consistent with previously adopted land use plans through its requirement that agencies file a consistency certification for any of their previously approved plans or programs that have not been incorporated into the Delta Plan. (See Draft Plan p. 61:32-35.) This requirement places a massive financial and administrative burden on local governments, especially during the current fiscal crisis and with significantly reduced resources, to prepare such consistency findings. In addition, and even though previously approved plans are not covered actions, yet-to-be-approved projects that are consistent with these previously approved plans could still be held inconsistent with the Delta Plan. For example, projects that are in the pipeline and that are consistent with the City’s 2007 General Plan could now be invalidated through the covered action process. The practical effect of the application of the consistency determination process, as it relates to existing approved General Plans, could be to invalidate parts of lawfully adopted General Plans, or at least subject them to post-hoc appellate review and litigation.

Moreover, the Draft Plan’s definition of covered actions, which incorporates CEQA’s definition of "project," also overreaches by failing to incorporate CEQA’s statutory and categorical exemptions, except for ministerial projects. Because the Draft Plan requires local agencies to make detailed findings for all significant impacts of any covered action, the omission of CEQA’s categorical exemptions effectively nullifies the effect of these exemptions. This is contrary to the Legislature’s direction that certain projects not be subject to the time, expense, and burden of CEQA compliance. In addition to creating a CEQA-like environmental assessment and findings requirement for projects that otherwise would not be subject to CEQA, for projects that are subject to CEQA, this requirement makes the DSC a separate administrative appellate body for CEQA in the Delta. This additional requirement adds a layer of review and timeline that
is inconsistent with CEQA and its timelines for project approval, in particularly its short statute of limitations.\(^3\)

**C. Consistency with the Delta Plan**

When a local agency undertakes a "covered action," that agency *must* prepare a "written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the council."

(Wat. Code, § 85225.) The Draft Plan discusses consistency in the context of specific policies contained in the Delta Plan, as well as in the context of the "coequal goals," the "inherent objectives" of the Delta Plan, and the Delta Plan generally. In this regard, some clarity regarding consistency with the Delta Plan, its policies and/or the coequal goals may be appropriate.

Water Code sections 85225.10 through 85225.25 provide for procedures by which any person, including a member of the DSC or its executive officer, can "appeal" a local agency’s certification of consistency to the DSC.\(^4\) Water Code section 85225.30 directs the DSC to adopt administrative procedures for appeals, which are contained in Appendix B of the Draft Plan.

Appendix B provides very short timeframes for the local agency, at its own cost, to prepare and submit the complete record before that local agency at the time the certification was made, including a requirement that the local agency prepare a table of contents of that record as well as a chronology of events and actions relevant to the "covered action." If the local agency fails to provide all of this information within 10 days of an appeal being filed, the DSC may automatically affirm the appeal and find the project inconsistent with the Delta Plan. The DSC must, with limited exception, hear an appeal within 60 days of the filing of an appeal and must render a decision within 60 days of hearing the appeal. If the appeal is granted, the DSC "remands" the action back to the local agency for reconsideration.

Notwithstanding Water Code section 85225.25’s authorization for the local agency to proceed with a covered action either as originally proposed or as modified by the local agency in response to the DSC’s findings, the administrative procedures appended to the Draft Plan prohibit a local agency from implementing a project unless an appeal has been denied or otherwise dismissed, or the local agency files a revised certification of consistency addressing the DSC’s findings and no further appeal has

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\(^3\) As discussed below, even a single appeal of a consistency determination (without an appeal of any remand), is likely to extend far beyond any CEQA statute of limitation for a local agency’s land use approval.

\(^4\) The Draft Plan contains no requirement that a person appealing a consistency determination to the DSC participate in the project proceedings before the local agency. The Draft Plan should be revised to contain such a requirement to afford the local agency with an opportunity to address any alleged deficiencies in the first instance.
been filed. This added requirement appears at odds with the statutory language providing the local agency with the final say on whether a proposed project should proceed. (Water Code, § 85225.25.)

The appeal process is highly burdensome to local agencies and is likely to result in substantial cost and staff resources. The appellate procedures also place a substantial burden on local agency funds and staff resources and include unreasonable, if not infeasible, timelines for local agency action, with potentially dire consequences if agencies are unable to comply. In addition to the concerns generally regarding the intrusion on local sovereignty, the City is concerned that this new program being implemented by the State through the DSC creates an unfunded mandate in violation of Article XIII B, section 6 of the California Constitution. The City has experienced significant reductions in funding and staff resources over the last three years and simply does not have the luxury of extra staff and resources necessitated by these new requirements.

It is within this new world that many local and regional government agencies in the Delta will be required to operate. The numerous Delta Plan policies, concepts of “coequal goals” and “inherent objectives” will provide new obstacles not only to new development, but also potentially to improvements and upgrades of existing infrastructure, redevelopment projects, and other necessary projects that protect and enhance the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

A prime example of the problems and conflicts associated with the Draft Plan’s treatment of covered actions and consistency is found in Draft Plan Policy RR P3. Draft Plan Policy RR P3 requires all covered actions to be consistent with Table 7-1. Table 7-1, in turn, includes “all urban development” under “covered actions.” By including “all urban development” within the definition of “covered actions,” Table 7-1 unreasonably broadens the Legislature’s definition of “covered action” (see Wat. Code, § 85057.5(a); Draft Plan at p. 57), which limits “covered actions” to those that will have a “significant impact on the achievement of one more of the coequal goals.”

While the DSC’s legal advisers have publicly stated that the interpretation of a covered action is expected to be rather narrow due in part to the “significant impact” language in Water Code section 85057.5, the plain language of Policy RR P3 (and Table 7-1) appears to cast a wide net over all future development within the area covered by the Delta Plan, including the City of Stockton. Under Table 7-1, urban development that meets the highest levels of flood protection (urban), and thus should

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5 Water Code section 85225.25 contemplates a project moving forward notwithstanding the DSC’s finding of inconsistency. The administrative rules create a circumstance by which a local agency can be caught in a never-ending circle of remands and appeals.

6 At a minimum, the Draft Plan should be revised to require an appellant to pay for the cost of the administrative record – similar to the same requirement in CEQA.
not implicate the policy concerns behind Policy RR P3, becomes a covered action whether or not it has a significant effect on achievement of the coequal goals (a Legislative prerequisite). To the extent the plan seeks to ensure adequate flood protection for urban development, this provision is unnecessary because state law already requires that the specified levels of flood protection be provided (i.e., Central Valley Flood Protection Act (CVFPA), Local Flood Protection Planning Act.). Moreover, it makes all urban development within the Delta subject to a consistency finding (and associated appeal process and litigation), even if such development is proposed pursuant to previously approved plans. The result is to create a type of “double jeopardy,” whereby local agencies’ prior planning efforts are subject to a cumbersome, lengthy, and uncertain as to outcome, layer of new administrative potential judicial review.

Another example is the Draft Plan’s potential to nullify the intent and implementation of the City’s General Plan and other important plans that have been adopted as a result of years of planning, community participation and expense. Under the Draft Plan the DSC could find that specific projects that implement the City’s General Plan, specific plans or community plans are inconsistent with the Delta Plan, thereby frustrating the City’s ability to provide for orderly development within its boundaries. This also introduces an element of uncertainty to the land development process that could stifle needed and desirable development within the existing urban areas of the Delta. If landowners and developers cannot rely on the measure of certainty provided by proposing development consistent with an adopted General Plans, it is foreseeable they will choose to go elsewhere, depriving Delta cities and counties of needed economic and redevelopment. Such a result is directly contrary to the legislative finding and declaration that carefully planned future development is essential to the economic and social well being” of persons living and working in the Delta.

The Draft Plan should be revised to recognize the need to protect the economic and social well-being of existing Delta residents; including those living in existing urban areas. The practical effect of the Delta Plan cannot be to stifle progress in existing urban areas and prevent orderly and carefully planned growth. The Delta Plan certainly

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7 For example, the CVFPA already requires general plans to incorporate information from CVFPP and agencies to conform their general plan and zoning ordinances upon completion of the next Housing Element update, accordingly, and/or following such amendments or by July 1, 2015, whichever occurs first, impose conditions on development to ensure adequate levels of flood protection (200 years in urban areas, 100 in nonurban areas). In order to enter into development agreement, or issue a permit to construct a residence, or approve a parcel map within a flood hazard zone, a city or county must find that existing facilities protect urban and urbanizing areas to a 1-in-200 chance of flooding (or lower) in any given year, or the FEMA standard of flood protection in nonurbanized areas, or impose conditions on the development that will provide the required level of protection, or find that the local flood management agency has made adequate progress on construction of the flood protection system to provide the required level of protection.
cannot retroactively invalidate otherwise lawfully adopted plans, such as the City's 2035 General Plan. In this regard, the Draft Plan should more carefully consider the application of "consistency determinations" as applied to urban areas and should be revised to eliminate the potential conflicts with existing plans. The Draft Plan should also be revised to not place the significant burden of the appeals process on local governments.

D. The Delta Plan should not Devalue Delta Agriculture

The Draft Plan, in an apparent attempt to justify the abandoning of certain Delta islands, makes the assertion that the cost of maintaining, improving, or repairing levees "may be more than the assessed value of the use of the land they protect in some cases." (Draft Plan at p.23:23-24.) Of course, the same can be said, that the cost to maintain levees exceeds the "assessed value", of lands that provide habitat, open space, parks, infrastructure, roads, and other land uses that provide important public values. This statement is contrary to the recognition of the substantial value of Delta agriculture as expressed earlier in the Draft Plan. (Draft Plan at p.15:1-3.) As such, the statement regarding the assessed value of Delta agricultural land and the cost of maintaining levees should be removed from the Draft Plan.

E. Risk Reduction Policy RR P3 is Inappropriate

The protection of the inhabitants of the City and surrounding areas from flooding is of utmost importance to the City. The City's current land use policies and building restrictions, combined with federal levee requirements provide the City with the appropriate tools to continue to address this critical issue. The City's comments regarding the Draft Plan's attempt to inappropriately constrain the City's land use authority should not be construed as a reduction of the City's commitment to protect the public.

The City has very serious concerns with RR P3 and accompanying Table 7-1. The problem statement that purports to support the policy contained in RR P3 claims that existing Delta levee standards and laws are insufficient to reduce flood risks to lives, property, and "State interests" in the Delta." (Draft Plan at p.173:8-10.) Policy RR P3 attempts to address this problem statement, requiring all covered actions in the Delta to be consistent with Table 7-1. (Draft Plan at p.173:12.) Table 7-1, in turn, provides for acceptable land uses and minimum levee design classifications. The practical effect of this "policy" would be to inhibit the orderly growth within the City's Sphere of Influence, growth that has undergone significant planning and environmental review, negates federal requirements already developed to protect life, property, and other interests, and would preclude the key objectives of the Delta Protection Commission's Economic Sustainability Plan. RR P3 and Table 7-1 should be removed from the Draft Plan.

The City of Stockton and/or the Port of Stockton have several fully-entitled and environmentally-cleared development projects in the City limits located within the
Secondary Zone of the Delta that are in various phases of the development process (see attached Exhibit 2). Some of those projects have approved Master Development Plans with Development Agreements, Planned Development Permits, Large-lot and/or Small-lot Tentative Subdivision Maps, or property leases, and are approaching buildout (requiring only ministerial approvals, such as Final Subdivision/Parcel Maps, building permits, etc.). Other approved master planned projects are in the early phases of the development process and may require additional discretionary entitlements (e.g., Small-lot Tentative Subdivision or Parcel Maps, Conditional Use Permits, etc.). The City respectfully requests that the buildout of those projects and future planned urban development projects in the City’s corporate limits and Sphere of Influence, located within the Secondary Zone of the Delta, be exempt from the “consistency determination” provisions of the Draft Plan and that Risk Reduction Policy RR P3 and Table 7-1 be removed from the Draft Plan.

II. IMPACT OF DELTA PLAN ON LOCAL WATER SUPPLIES

The Draft Plan includes policies and recommendations on reducing reliance on the Delta through improved regional self-reliance. For many water suppliers in and around the Delta, these policies and recommendations create a contradiction.

As the Draft Plan notes, water supply self-reliance is achieved, in part, through the development of local and regional water supplies. For the City, those local and regional supplies include the Delta. The Draft Plan should be revised to recognize that certain areas of the State rely upon the Delta as a local water supply. To the extent the Delta Plan continues to require communities in the Delta watershed to develop alternate supplies while also promoting continued export through new conveyance options, it violates the area of origin laws as set forth in Water Code sections 10504 et seq., Water Code sections 11460 et seq., and Water Code section 12200 et seq.

Local water supplies also include groundwater. The Eastern San Joaquin County Groundwater Basin is designated as critically overdrafted. (DWR Bulletin 118-80.) Since that time, local stakeholders have been working towards achieving a consensus-based approach, which has resulted in the Eastern San Joaquin Integrated Regional Water Management Plan (IRWMP). This plan contemplates diverting surface water in surplus years to conjunctively manage water local water resources in an effort to achieve regional self-reliance. WR R10 recommends the State Water Resources Control Board (SWRCB) to take certain actions, including potential groundwater basin adjudications, where certain conditions exist. The Draft Plan should promote consensus-based approaches to managing available water resources and help make clear that adjudications, which consume a tremendous amount of time and resources, should only be initiated as a last resort.
III. DELTA PLAN AND WATER QUALITY

A. Recommendation WQ R6 is Impractical

WQ R6 recommends that the SWRCB and regional boards adopt certain objectives and TMDLs. (Draft Plan at p.148:22-38.) The Draft Plan recommends adopting narrative or numeric water quality objectives for nutrients by the end of 2013. Considering the lack of information currently available, setting such a deadline for the adoption of nutrient water quality objectives is unreasonable and impractical. The Draft Plan also recommends accelerating the completion of TMDLs for pyrethroids to January 1, 2016. This short timeframe is also unreasonable and impractical. There are no existing water quality standards for pyrethroid pesticides. Prior to establishing a TMDL, water quality standards must be adopted into the relevant Basin Plans, and approved by U.S. EPA. This process itself takes considerable time and recommending completion of a pyrethroid TMDL by the end of 2015 is unreasonable and impractical. Instead of recommending unachievable goals, the Draft Plan should strive to recommend goals that are actually achievable.

Another example of unrealistic expectations in the Draft Plan can be found in the Water Quality Driver Performance Measures at page 150. There, the Draft Plan provides that a Driver Performance Measure is meeting TMDLs for critical pesticides by 2020. This is, of course, problematic because the Central Valley Pesticide TMDL is currently behind schedule and is still in development. It is inappropriate to set a compliance date for meeting TMDLs when TMDL adoption may be years out still.

With respect to the issue of emerging contaminants, special studies cannot be conducted until an appropriate test methodology is established for such contaminants. Thus, the 2014 deadline suggested here is also unrealistic.

The City also takes issue with the WQ R8. It suggests that the Central Valley Water Board shall require treatment just because it may be feasible – not because it is required. First, the Central Valley Water Board may not dictate the manner of compliance. (See Wat. Code, § 13360(a).) In other words, for POTWs, the Central Valley Water Board is required to set effluent limitations to protect beneficial uses and ensure compliance with water quality standards. POTWs must then determine how they will comply with the effluent limitations. Compliance methods may include, but are not limited to, treatment, source control, special studies, or other mechanisms. For urban stormwater, municipalities must implement control methods to reduce the discharge of pollutants to the maximum extent practicable. (33 U.S.C.S., §1342(p)(3).) Accordingly, WQ R8 proposes a recommendation that directly contradicts applicable water quality laws and must be removed.)
IV. DELTA PLAN AND ECONOMIC SUSTAINABILITY IMPACTS WITHIN SECONDARY ZONE OF THE DELTA

The Delta Plan should address economic sustainability impacts within the Secondary Zone of the Delta, particularly on urban areas like Stockton and the Port of Stockton (e.g., impacts on shipping, dredging, and industrial development and operations within and in the vicinity of the Port of Stockton; agricultural operations; boating, marinas, parks, and other recreational/tourism land uses and operations; etc.). The Economic Sustainability Plan prepared for the Delta Protection Commission (DPC), as input to the Draft Delta Plan, focuses solely on the Primary Zone and does not address the economic impacts within the Secondary Zone of the Delta.

V. CONCLUSION

The City looks forward to the continued opportunity to work with DSC staff in making the Delta Plan a success in achieving the coequal goals in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place. Should you have any questions or wish to discuss these comments, please contact Deputy City Manager Michael E. Locke at (209) 937-5011 or City Attorney John Luebberke at (209) 937-8934.

ANN JOHNSTON
MAYOR

AJ/ML/JL/MMN:ss

Attachments
emc:  Stockton City Council w/attachments
       Bob Deis, City Manager w/attachments
       Michael E. Locke, Deputy City Manager w/attachments
       John Luebberke, City Attorney w/attachments
       Jeff Willett, Acting Municipal Utilities Director w/attachments
       Michael Niblock, Community Development Interim Program Specialist w/attachments
       David Stagnaro, AICP, Planning Manager, CDD/Planning and Engineering Services Division w/attachments
       Stockton Planning Commission w/attachments
       Stockton Development Oversight Commission w/attachments
       San Joaquin County Board of Supervisors w/attachments
       Manuel Lopez, San Joaquin County Administrator w/attachments
       David Wooten, San Joaquin County Counsel w/attachments
       Terry Dermody, San Joaquin County Special Water Counsel w/attachments
Delta Stewardship Council
September 29, 2011
Page 14 of 14

Elena Reyes, San Joaquin County Deputy County Administrator w/attachments
Tom Gau, San Joaquin County Public Works Director w/attachments
Kerry Sullivan, San Joaquin County Community Development Director w/attachments
Mel Lytle, San Joaquin County Water Resources Coordinator w/attachments
Scott Hudson, San Joaquin County Agricultural Commissioner w/attachments
Brandon Nakagawa, San Joaquin County Senior Civil Engineer w/attachments
Richard Aschieris, Director, Port of Stockton w/attachments
Steven Herum, Legal Counsel, Port of Stockton w/attachments
Steve Escobar, Real Estate/Properties Development Manager, Port of Stockton w/attachments
Karen McLaughlin, Manteca Deputy City Manager w/attachments
Andrew Malik, Tracy Director of Development & Engineering Services w/attachments
William Dean, Tracy Assistant Director of Development & Engineering Services w/attachments
Cary Keaton, Lathrop City Manager w/attachments
Konradt “Rad” Bartlam, Lodi City Manager w/attachments
D. Stephen Schwabauer, Lodi City Attorney w/attachments
James Glaser, San Joaquin County LAFCO Executive Officer w/attachments
Paul Simmons, Attorney, Somach Simmons & Dunn w/attachments
John Beckman, CEO, BIA of the Delta w/attachments
PORT OF STOCKTON
Grant Projects
- Emergency Response Center Construction
- Forward Command Post
- Highway 4/Fresno Av
- Navy Drive Bridge

Bulk Liquids Terminal (new) - project 1
- Estimated construction completion 2012
- Handling 100,000 m/t plus

Construction Materials (new) - project 2
- Estimated construction completion 2013
- Handling 250,000 m/t plus

Construction Materials (new) - project 3
- Estimated construction completion 2015
- Handling 300,000 m/t plus

Bulk Liquids Terminal Expansion - project 4
- 2012 - 60 million gallons of ethanol

Bulk Liquids Terminal Expansion - project 5
- 2013 - 7.5 million gallons of ethanol

Renewable Fuels Expansion - project 6
- 2013 - 10 million gallons of vegetable oils/animal fats inbound via shipping vessel
- 10 million gallons of biodiesel outbound via shipping vessel

Cold Storage Expansion - project 7
- 2012 to 2015 - adding approximately 300,000 sq. ft. over three phases
September 29, 2011

Mr. Phil Isenberg, Chairman
Council Members
Delta Stewardship Council
650 Capital Mall, Fifth Floor
Sacramento, CA 95814

SAN JOAQUIN COUNTY AND CITY OF STOCKTON JOINT COMMENT LETTER REGARDING 5TH DRAFT DELTA PLAN

Dear Mr. Isenberg:

The City of Stockton (City) and San Joaquin County (County) have respectfully submitted separate comment letters regarding the 5th Draft of the Delta Plan. To emphasize the sincerity of the City and County, we emphatically express in this joint letter that there are concerns with the Stewardship Council’s (Council) Delta Plan shared by the local community that have yet to be resolved.

Fundamentally, the City and the County are seriously concerned with the direction of the Delta Plan and details set forth in the 5th Draft as it relates to local and regional economic sustainability, local land use authority, flood protection, future water supplies, and a fair and equitable distribution of impacts related to the future implementation of the Delta Plan. Our hope is that the Council will seriously consider the comments put forth and that you will ultimately recognize the Sacramento-San Joaquin River Delta as a special place of significance, requiring protections, in terms of where we, as the greater Stockton and San Joaquin County community, lives, works, and plays.

The City of Stockton and San Joaquin County have worked and will continue to work together to provide meaningful comments to the Delta Stewardship Council. Should you have any questions, please contact Tom Gau, Director of Public Works, San Joaquin County, and/or Michael E. Locke, Deputy City Manager, City of Stockton*.

Sincerely,

Frank L. Ruhstaller, Chairman
San Joaquin County Board of Supervisors

Ann Johnston, Mayor
City of Stockton

*Not a signature
cc:  San Joaquin County’s State Delegation  
     Escalon City Council  
     Lathrop City Council  
     Lodi City Council  
     Manteca City Council  
     Ripon City Council  
     Tracy City Council  
     Port of Stockton  

Stockton City Council  
Bob Deis, Stockton City Manager  
Michael E. Locke, Stockton Deputy City Manager  
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Michael Niblock, Stockton Community Development Interim Program Specialist  
David Stagnaro, AICP, Stockton Planning Manager  
Stockton Planning Commission  
Stockton Development Oversight Commission
CITY OF STOCKTON TALKING POINTS RE: 5\textsuperscript{TH} DRAFT DELTA PLAN

The Delta Stewardship Council will soon adopt a “Delta Plan”. Local public agencies such as the City of Stockton will be required to conform their actions to the policies in the Plan. The City and other agencies are concerned with the scope and extent of proposed regulatory and review authority that the Council is considering for adoption. The Proposed Delta Plan, in its current form, continues to threaten the ability of local communities to grow and prosper, may usurp local decision making, and provides an appointed body with the authority to veto local land use and other decisions regarding “covered actions” based upon subjective criteria. Some of the City’s most significant concerns are outlined below:

- The Proposed Delta Plan threatens growth and land use approvals, including growth and new land uses consistent with existing planning documents.

Over 50 percent (21,256 acres) of the City’s incorporated urban area and an additional 7,932 acres within the City’s Sphere of Influence are located within the Secondary or Primary Zones of the Delta. Currently, all development within these boundaries must be consistent with the City’s adopted 2035 General Plan and Infrastructure Master Plans. The Delta Plan, as currently drafted, could act as a de facto reversal of the prior approvals and indirectly usurp the City’s existing land use authority within the areas covered by the Delta Plan.

- The Proposed Delta Plan may stifle progress in existing urban areas or prevent orderly and carefully planned growth.

The Proposed Delta Plan creates new standards and criteria for all but ministerial approvals within the area covered by the Delta Plan. The practical effect of the implementation of the Delta Plan could be to create new barriers to growth and redevelopment within the City’s existing urban footprint. The City believes that the ultimate Delta Plan should exclude existing urban areas in the secondary zone of the Delta from the Delta Plan certification of consistency determination requirements for covered actions and should exempt planned urban development within the incorporated City limits and the City’s adopted Sphere of Influence.
• The Delta Plan should not threaten local water supplies.

The Proposed Delta Plan requires water users to "reduce reliance" on the Delta. For many local communities, the local water supplies include the Delta. For many of these communities, it is not possible or practicable to find alternate sources of water. The Delta Plan must recognize the need for local Delta communities to achieve regional self-reliance through the continued beneficial use of water from local sources, including the Delta.

• Urban development within existing planning areas, located behind levees that meet current federal standards, should be considered consistent with the Delta Plan.

The Proposed Delta Plan would place new restrictions on development "behind levees," and would impose requirements that greatly exceed existing federal requirements for levee construction. The City believes that the Delta Plan should provide for development consistent with federal standards for levee construction / flood protection.

• The Delta Plan should address economic sustainability impacts within the Secondary Zone of the Delta, particularly in urban areas like Stockton and the Port of Stockton.

The implementation of the Delta Plan could adversely impact the financial viability of local communities through increased restrictions and by creating regulatory uncertainties. Currently, the Economic Sustainability Plan prepared by the Delta Protection Commission (DPC), which is being used to develop the Delta Plan, focuses solely on the Primary Zone and does not address the economic impacts within the Secondary Zone of the Delta. As portions of the City's existing urban area and Sphere of Influence are located within the secondary zone, the Delta Plan should build upon the DPC's Economic Sustainability Plan and analyze the impacts of the Delta Plan and the Bay Delta Conservation Plan on these areas.
November 8, 2011

Phil Isenberg, Chairman, and Council Members
Delta Stewardship Council
Attn: P. Joseph Grindstaff, Executive Officer
980 Ninth Street, Suite 1500
Sacramento, California  95814

CITY OF STOCKTON REQUEST FOR TIME EXTENSION TO COMMENT PERIOD ON THE DRAFT EIR FOR THE DELTA PLAN

The City of Stockton (City) appreciates the opportunity to review and comment on the Draft Environmental Impact Report (EIR) for the Draft Delta Plan, for which the 60-day public review period ends on January 3, 2012. The City understands that the 60-day review period exceeds the minimum 45-day review period authorized under the California Environmental Quality Act (CEQA) for this draft EIR. However, due to the voluminous (+2,200 pages) and complex nature of the Draft EIR, the fact that the review period falls during two major holiday periods, and the significance of the Delta Plan on Stockton, the City is respectfully and officially requesting that the Delta Stewardship Council (DSC) extend the public review period for an additional 90 days, ending on April 2, 2012. The City has substantially reduced staff resources and this time extension will facilitate an adequate review by our staff and will allow for appropriate input by all affected parties, including our City Council, Planning Commission, and Development Oversight Commission.

The City looks forward to your favorable response to our time extension request. The City is committed to our continued coordination with the Delta Stewardship Council and staff in the review of the Draft EIR and the ongoing review and future adoption and implementation of the Delta Plan. Should you have any questions or wish to discuss this request, please contact Deputy City Manager Michael E. Locke at (209) 937-5011 or City Attorney John Luebberke at (209) 937-8934.

Ann Johnston
ANN JOHNSTON
MAYOR
Delta Stewardship Council  
November 8, 2011  
Page 2 of 2  

AJ/ML/JL/MMN:ss  

dmc: Stockton City Council  
Bob Deis, City Manager  
Michael E. Locke, Deputy City Manager  
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James Glaser, San Joaquin County LAFCO Executive Officer  
Paul Simmons, Attorney, Somach Simmons & Dunn  
John Beckman, CEO, BIA of the Delta  
Nelson Bahler, Grupe Company  
Barbara Barrigan-Parrilla, Restore the Delta  
Andrew Chesley, San Joaquin Council of Governments  
Bill Jennings, CA Sportfishing Protection Alliance  
Mike Machado, Delta Protection Commission  
David Nelson, AG Spanos Companies  
Dante Nomellini, Nomellini Grilli & McDaniel PLCs  
Natalia Orfanos, AG Spanos Companies  
Katie Paterson, San Joaquin Farm Bureau  
Tom Zuckerman, Central Delta Water Agency
Resolution No. __________

STOCKTON CITY COUNCIL

-- A Delta Initiative of Cities and Agencies of San Joaquin County --

RESOLUTION ON LAND USE, WATER, AND OTHER DELTA RELATED ISSUES

This Resolution is effective upon passage by the CITIES, the COUNTY AND OTHER STAKEHOLDERS WITHIN SAN JOAQUIN COUNTY, which include political subdivisions of the State of California and other interested parties, both public and private, hereinafter collectively referred to as “the MEMBERS.”

RECITALS

WHEREAS, the Sacramento-San Joaquin River Delta is at risk from many factors, and in addressing these threats the State is proposing large-scale changes to the Delta ecosystem, land use authority within the Delta, water conveyance through and around the Delta, water rights, statewide management, and many other aspects related to the Delta; and

WHEREAS, the CITIES, COUNTY and OTHER STAKEHOLDERS as Members believe there is value in developing an initiative on issues concerning the Sacramento-San Joaquin River Delta, its watershed, and greater Bay/Delta estuary; and

WHEREAS, the MEMBERS wish to collectively articulate the issues and interests from the perspective of the Delta region itself, from the people who call the Delta home and best understand the tremendous resource the Delta represents; and

WHEREAS, the MEMBERS have identified a need for joint action, advocacy, and mutual interests on Delta-related issues.

NOW THEREFORE, the MEMBERS adopt this Resolution for the purpose of articulating mutual interests on Delta issues. Furthermore, the MEMBERS resolve to work together to defend Delta-related interests at a regional perspective and to use their unified voice to advocate on behalf of local government in available forums at all levels. Our principles of mutual interests are as follows:

1. Recognition of the authority and responsibility given to local government related to land use, water resource development, flood management, public health and safety, economic development and sustainable growth, agricultural stability, recreation, and environmental protection.
2. Protect the economic viability of agriculture, industry, recreation, and the ongoing vitality of communities throughout the Delta.

3. Represent and include local government in any new governance structures for the Delta.

4. Funding and implementation of urban and non-urban flood protection through rehabilitation, improvement, and maintenance of flood control levees and structures.

5. Protection and restoration of the Delta ecosystem including adequate water supply, quality, and outflow to support fisheries, wildlife, and habitat in perpetuity while supporting immediate improvements to the existing Through-Delta Conveyance as part of a complete strategy for the State's water management.

6. Incorporation of sustainable approaches for improved water supply, quality, and reliability through the overarching principle of regional self-sufficiency to reduce future reliance on exports from the Delta.

PASSED, APPROVED, and ADOPTED December 13, 2011.

ATTEST: ANN JOHNSTON, Mayor of the City of Stockton

BONNIE PAIGE
City Clerk of the City of Stockton