Delta Related Issues/Actions

Adoption of Joint Resolution and Response to Delta Plan and Delta Plan EIR

December 13, 2011
Introductory Comments

San Joaquin County Delta Initiative Coalition Resolution

- Establishment of San Joaquin County Delta Initiative Coalition

- Coalition Adoption of Joint Resolution of December 5, 2011

- Requesting Resolution Support and Adoption by Other Stakeholders
BACKGROUND INFORMATION

Delta Stewardship Council (DSC):
- Independent State Agency created in Delta Reform Act of 2009
- Responsible for preparing/implementing comprehensive “Delta Plan”
- DSC – 4 appointed by Governor, 1 each by Senate and Assembly, and Chair of the Delta Protection Commission

Co-equal goals:
- Provide more reliable water supply for the state; and
- Protect, restore, and enhance the Delta ecosystem

Current Draft Plans/Environmental Documents:
- 5th Draft Delta Plan – Subject of Environmental Impact Report
- Draft Program Environmental Impact Report (DPEIR)

Delta Plan/Bay Delta Conservation Plan (BDCP):
- Delta Plan Adoption Prior to BDCP Approval
- BDCP to be Incorporated into Delta Plan
CITY OF STOCKTON TALKING POINTS

THE 5TH DRAFT DELTA PLAN:

- Threatens growth and existing land use approvals
- May stifle progress in existing urban areas or prevent orderly and carefully planned growth within City’s Sphere
- Threatens local water supplies by requiring reduced reliance on the Delta
- Places new restrictions on urban development located behind levees that exceed current federal standards
- Should address economic sustainability impacts within the Secondary Zone of the Delta, particularly in urban areas like Stockton and the Port of Stockton
COORDINATED ACTIONS OF SJ DELTA INITIATIVE COALITION

Providing Coordinated Actions Re:

- Common Issues/Concerns
- Impacts on Local Governance
- Economic Sustainability
- Provision of Common Voice and Improved Negotiating Position
- Regional Public/Private Partnership
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.”
November 1, 2011

Mr. Adam Brucker  
Senior Planner  
City of Stockton  
345 North El Dorado Street  
Stockton, CA 95202-1997  

RE: ALCO Stockton Recycling Facility Mitigated Negative Declaration, SCH # 2011102047

Dear Mr. Brucker:

The Delta Stewardship Council (Council) is an independent state agency charged with adopting and implementing a legally-enforceable, integrated resources management plan for the Sacramento–San Joaquin Delta, referred to as the “Delta Plan” (see generally, the Sacramento–San Joaquin Delta Reform Act of 2009, Div. 35 of the California Water Code). Once the Delta Plan becomes effective as a state regulation (anticipated in Summer 2012), state and local agencies that propose to carry out, approve or fund “covered actions” must first prepare and file with the Council written certifications that those actions are consistent with the Delta Plan. Those certifications are subject to appeal, and a project may not proceed until it is consistent with the Delta Plan.

Council staff recently reviewed the ALCO Stockton Recycling Facility Mitigated Negative Declaration. While the project does occur in the Delta it appears that the project, as it is currently described, would likely not meet the definition of a “covered action”. However, the project could become a covered action in the future if it changes and, as a result, has a significant impact on the achievement of the coequal goals. Should that occur, we would encourage you to consult with us to ensure the project’s consistency with the Delta Plan and the coequal goals.

What is a covered action? It is “a plan, program, or project as defined by §21065 of the PRC that meets 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.” (CA Water Code §85057.5)

"Coequal goals" means 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.  
  - CA Water Code §85054
City’s Activities/Coordination

- Comments on Third Draft – May 6, 2011
- Mayor’s Presentation to DSC on May 12, 2011
- Proposed Language Changes – May 31, 2011
- Attendance at DSC Workshops – May – September 2011
- Council Study Session – July 19, 2011
- Initial Coordination with County/Port/Other Cities – August – September 2011
- Comments on Fifth Draft – September 29, 2011
- Joint City/County Letter – September 29, 2011
City’s Activities/Coordination (Cont.)

- Coordination with Development Community, Port, County, Others – September/December 2011
- Continuing Review/Monitoring, Coordination, and Advocacy re: Draft Delta Plan, EIR, Regulations
- SJ County Delta Initiative Coalition – On-going Coordination Efforts/Meetings w/ Other Affected Agencies/Parties
- Mayor’s Comments to Delta Protection Commission for SJ County Delta Initiative Coalition re: Seeking Support of Joint Resolution – Dec. 8, 2011
- Staff Comments at Delta Stewardship Council “Covered Actions” Work Session – Dec. 9, 2011
Current/Tentative DSC Schedule

- DSC Staff Workshops on Draft EIR: Nov. 17 and Dec. 15, 2011
- Sixth Draft Delta Plan Published: March 2012?
- Delta Plan Final (7th) Draft/Final EIR Published: April/May 2012?
- Delta Plan Approval/EIR Certification: April/May 2012?
- Review by State Office of Administrative Law: April - June 2012?
- Final Delta Plan Effective: July 2012?
The Delta Stewardship Council was created in November 2009 when the State legislature passed the Delta Reform Act. The Council's first public meeting was held in April 2010 and work to develop the Delta Plan and its Program Environmental Impact Report have steadily progressed. This timeline captures work completed since August 2011 and projected through the summer of 2012.

**Delta Stewardship Council Plan Timeline**

- **Delta Plan**
  - Delta Plan Development Process

- **EIR**
  - Program Environmental Impact Report Process

- **OAL**
  - Office of Administrative Law/State Rulemaking Process

**Continual Outreach to Stakeholders, Leg, Tribes, Public, etc.**

**Version: 120811**
Links for Delta Plan & EIR

- Delta Stewardship Council Website:
  http://deltacouncil.ca.gov/

- 5th Draft Delta Plan:
  http://deltacouncil.ca.gov/delta-plan

- Delta Plan Draft EIR Webpage:
  http://deltacouncil.ca.gov/draft-eir
RECOMMENDATION

It is recommended that the City Council approve the following:

- 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; and,

- 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 multi-stakeholder comment letter 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, and related Delta plans or programs.
The following slides are not a part of the presentation. Shown only if needed.
Delta Plan

- Governance
- Ecosystem Restoration
- Water Quality
- Flood Risk
- Delta as a Place
- Financing Plan
Key Concepts

Delta Stewardship Council (DSC):
• Independent State Agency created in Delta Reform Act of 2009
• Responsible for preparing and implementing the Delta Plan
• DSC – four appointed by Governor, one each by Senate and Assembly, and the Chair of the Delta Protection Commission

Co-equal goals:
• Provide a more reliable water supply for the state; and
• Protect, restore, and enhance the Delta ecosystem

Adaptive Management:
• Continuous reevaluation of Plan, based on best available science
• Updated at least every five years

Delta Plan/Bay Delta Conservation Plan (BDCP):
• Delta Plan expected to be in place before BDCP is approved
• BDCP is expected to be incorporated into the Delta Plan
Delta Plan

Land Use Issues

- Coverage
  - Primary Zone
  - Secondary Zone
Delta Plan

Primary/Secondary Boundaries

Stockton acreage:

41,521 Total City Acreage
842 in Primary Zone
20,414 in Secondary Zone
GOVERNANCE CHANGES UNDER THE DELTA STEWARDSHIP COUNCIL’S (DSC) DELTA PLAN

- Delta Plan Consistency Determination
- Covered Actions (Discretionary)
- Significant Impact Determination
- DSC Authority and Appeal Process
- Loss of Local Land Use Authority
Decision Tree for State and Local Agencies on Possible Covered Actions

1. Is the proposed project excluded under Water Code section 85057.5 (b)?
   - Yes
   - No

2. Plan, program, or project per Public Resources Code section 21065?
   - Yes
   - No

3. Will occur within boundaries of the Delta?
   - Yes
   - No

4. Will be carried out, approved, or funded by an agency?
   - Yes
   - No

5. Is covered by provisions of the Delta Plan?
   - Yes
   - No

6. Will have a significant impact on achievement of corelous goals or flood control programs?
   - Yes
   - No

7. Certify consistency with policies in the Delta Plan. If covered action is inconsistent with the Delta Plan, revise plan, program or project to achieve consistency.

Not a covered action requiring consistency with Delta Plan.
SPECIFIC CERTIFICATION AND APPEAL PROCEDURES

- Adopt Findings and Certificate of Consistency
- Certification at End of Permitting Process
- Filed with DSC within 10 Days of an Appeal
- Appeal Process Between 90 and 150 Days
Appealed Action Not Implemented Unless:

- Appeal is Denied;
- Revised Certificate Filed and Not Re-appealed; or
- Dismissed for Other Reasons.
SIGNIFICANCE OF THE CERTIFICATION PROCESS

- Usurps Local Land Use Authority
- Complicates and Adds Bureaucracy to Permit Process
- Adds Cost and Delays to Permit Process
- Creates Uncertainty to Discretionary Approval Process
- Hinders Economic Growth
SIGNIFICANCE OF THE CERTIFICATION PROCESS (Continued)

- May Delay or Preclude Implementation of Land Use Plans/Developments, including:
  - Development in Downtown, Other Infill Areas, and the Port
  - General Plan and Settlement Agreement with Sierra Club/Attorney General
  - Upgrades to City’s Regional Wastewater Control Facility and Future Expansion of Delta Water Supply Project
  - Future Entitlements for Approved Master Planned Communities in Secondary Zone (e.g., Grupe’s Sanctuary Project)
Questions?

Contact: Mike Niblock
City of Stockton
Community Development Dept.
(209) 937-8090
mike.niblock@stocktongov.com