

March 25, 2010

Don Nottoli, Chair
Delta Protection Commission
14215 River Road
P.O. Box 530
Walnut Grove, CA 95690

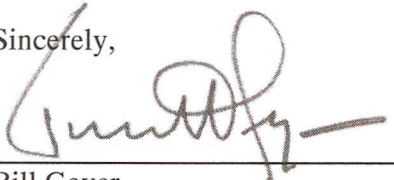
Dear Don,

We have the following comments and requests relative to the DPC's Primary Zone Boundary Review.

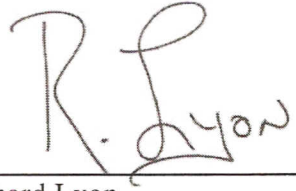
- 1) We agree with Lester Snow's comments that if such a review is to be conducted, the DPC is the right place to do it.
- 2) We want to participate in your process, for the purpose of ensuring that all potentially affected Delta landowners are afforded meaningful procedural and substantive "due process," and that any changes to primary zone boundaries are clearly necessary and not inequitable. We are glad your March 10 revised working paper recognizes landowners as stakeholders.
- 3) We are concerned that the time constraints put on your review by the legislature may compromise your ability to integrate meaningful due process into your deliberations, and think due process should be more important than deadlines. This is true even if your report is only a recommendation to the legislature. If you're caught between a rock and a hard place, let's talk about how to move one or the other.
- 4) At least some of the sites mandated for review are not precisely defined (e.g. South Delta Lowlands), plus you have the power to study changes beyond the six sites specified. This means in theory that the whole secondary zone is in play until you say it is not. We would encourage you to take early action to narrow your scope of review to specific mapable areas, and clearly take all other secondary zone areas out of play.
- 5) We heard significant comments during the Delta Vision and legislative processes about how an expansion of the primary zone might be necessary to achieve various Delta goals and objectives. Many of these goals and objectives contemplate public acquisition of fee or less than fee interests in land and water rights as essential to their implementation. In this context, we fear that the failure of the legislation to provide guaranteed funding for contemplated collaborative programs, and the possible failure of the proposed bond financing proposition, may leave the Delta with a "Perfect Storm" condition for inverse

condemnation. We are glad to see that your March 10 criteria do not directly identify public projects as the basis for expanded primary public zone status, but we are concerned that other criteria could independently arrive at the same effect of land and resource devaluation benefitting contemplated public and even private acquisitions. We think you need to be both legally and practically extremely careful about this, or about otherwise shifting public interest costs to landowners through regulatory devaluation or public trust expansion.

Sincerely,



Bill Geyer
Resource Landowners Coalition



Richard Lyon
California Building Industry Association