NORTH DELTA WATER AGENCY

910 K Street, Suite 310, Sacramento, CA 95814
(916) 446-0197 Fax (916) 446-2404 melinda@northdw.com

Melinda Terry, Manager

May 31, 2011

SENT VIA EMAIL: deltaplancomment@deltacouncil.ca.gov

Phil Isenberg, Chair
Delta Stewardship Council

SUBJECT: North Delta Water Agency Comments on Third Staff Draft Delta Plan

The North Delta Water Agency (NDWA) respectfully submits these comments on the Delta Stewardship's Third Staff Draft Delta Plan (DSC Plan) dated April 22, 2011. We apologize for the length of these comments, but due to the inability to properly convey our concerns over the adequacy of the DSC Plan in the snippets of time allowed at the Council's public meetings, we felt it important be as comprehensive as possible at this point in your planning process.

NDWA BACKGROUND

The NDWA was formed by a special act of the Legislature in 1973 (North Delta Water Agency Act, Chapter 283, Statutes of 1973). Its boundaries encompass approximately 300,000 acres including all of that portion of Sacramento-San Joaquin Delta, as defined in Water Code Section 12220, that is situated within Sacramento, Yolo and Solano Counties. Also included within NDWA's boundaries are certain lands in northeastern San Joaquin County comprising New Hope Tract, Canal Ranch and Staten Island.

Beginning approximately 160 years ago, farmers within the area now comprising NDWA began reclaiming lands from flooding, appropriating water to beneficial use and establishing vibrant agricultural communities. The Bureau of Reclamation (Bureau) began constructing the Central Valley Project (CVP) in the late 1930s, damming the major tributaries on the Sacramento River and holding back substantial quantities of the Delta water supply. As it did with landowners along the Sacramento River, the United States conducted extensive studies and negotiations to ensure a sufficient supply for water right holders in the northern Delta. Discussions with Delta landowners were protracted however, due to the complex issues of both water quantity and

quality, and the issues only intensified with the construction of the State Water Project (SWP) by the California Department of Water Resources (DWR).

Against this backdrop, the NDWA was formed to represent northern Delta interests in negotiating a contract with both the Bureau and DWR in order to mitigate the water rights impacts of the Projects. From 1974 to 1979, NDWA, the Bureau and DWR determined the outflow necessary to meet water quality standards for irrigated agriculture and reviewed the paramount water rights of landowners within NDWA boundaries. The agencies also evaluated the Delta channels' historical function as natural seasonal storage. Before the Projects began withholding much of the Sacramento River system's high winter flows, the Delta channels stored sufficient ***fresh water*** to sustain water quality in the northern Delta throughout and often beyond the irrigation season (normal and wet years). Since the Projects commenced however, the Delta currently functions more like a flowing stream than a fresh water pool, and as a result, relatively minor decreases in outflow can have a serious impact on northern Delta water quality.

In 1981, DWR and the NDWA executed a Contract for the Assurance of a Dependable Water Supply of Suitable Quality (1981 Contract). The crux of the 1981 Contract is a ***guarantee by the State of California*** that, on an ongoing basis, it will ensure that suitable water will be available in the northern Delta for agriculture, municipal, and industrial use. The 1981 Contract requires DWR to operate the SWP to meet specified water quality criteria while providing enough water to satisfy all reasonable and beneficial uses of water within the NDWA's boundaries (1981 Contract, Article 8). In return, the NDWA makes an annual payment to DWR (Article 10). Although the two signatories are public agencies, the 1981 Contract also extends to individual landowners who, under the terms of the 1981 Contract, have executed Subcontracts guaranteeing that their lands will receive all the benefits and protections of the 1981 Contract (Article 18).

In connection with the hearings that preceded the State Water Resources Control Board's (SWRCB) adoption of Water Right Decision 1641, DWR and the NDWA entered into a memorandum of understanding dated May 26, 1998 (MOU) consistent with Article 2 of the 1981 Contract, which provides that DWR is responsible for any obligation imposed on the NDWA to provide water to meet Bay-Delta flow objectives, so long as the 1981 Contract remains in effect. In Decision 1641, the SWRCB made the following findings and determinations: "Based on the agreement, the SWRCB finds that the DWR will provide the backstop for any water assigned to the parties within the NDWA as specified in the MOU. This decision assigns responsibility for any obligations of the NDWA to the DWR consistent with the MOU" (Decision 1641 at 66). The latter findings and determinations were upheld by the trial and appellate courts that subsequently reviewed Decision 1641.

GENERAL COMMENTS OF DSC THIRD STAFF DRAFT

DSC Delta Plan fails to identify destination or road map for improving Delta values.
The Legislature gave general descriptions of the general location it would like the DSC Plan to head (manage Delta resources, restore ecosystem, promote water conservation, improve water quality, improve water conveyance and storage, reduce flood risk, establish accountable governance, and enhance the unique values of the Delta), but the statutes are vague and therefore is like asking someone to meet you at a gas station in Sacramento, but failing to provide the

name the station, the address of that gas station, or what time to meet. Without this critical information, it is unlikely the meeting will ever occur.

The NDWA is concerned that the DSC Third Staff Draft Delta Plan (DSC Plan) suffers from many of the same weaknesses the National Academy of Sciences (NAS) attributed to the Bay-Delta Conservation Plan (BDCP). The conclusion that the NAS reached on their review of the BDCP was: ***"The plan is missing the type of structure usually associated with current planning methods in which the goals and objectives are specified, alternative measures for achieving the objectives are introduced and analyzed, and a course of action is identified based on analytical optimization of economic, social, and environmental factors."*** Unfortunately, the NDWA believes the exact same criticism applies to the DSC Plan.

The NAS also criticized the BDCP for management fragmentation and a lack of coherence: ***"The absence of scientific synthesis in the draft BDCP draws attention to the fragmented system of management under which the plan was prepared – a management system that lacks coordination among entities and clear accountability. No one public agency, stakeholder group or individual has been made accountable for the coherence, thoroughness and effectiveness of the final product." "Unless the management structure is made more coherent and unified, the final product may continue to suffer from a lack of integration, in an attempt to satisfy all discrete interests and not, as a result, the larger public interests."*** Again, the DSC Plan suffers from the same problem. The DSC seems to have focused on creating a regulatory accountability scheme without providing coordination or integration of entities or a management system that utilizes the existing authority of various agencies in the Delta.

The NDWA would like to see the DSC Plan provide a systematic, scientific look at the potential impacts of actions proposed in the DSC Plan and how the co-equal goals of Delta as Place, water supply reliability, and ecosystem restoration would benefit from those actions. We need an integrated description of the DSC Plan components and how they relate to each other in achieving the three co-equal goals. The lack of specificity on the outcomes the DSC Plan hopes to achieve makes it difficult for the NDWA and the public to properly understand, interpret, and review the science that underlies the DSC Plan and its ability to achieve the objectives or what mitigations are necessary.

The NAS also took issue with BDCP's inability to tie together how conservation measures and science would result in a clear path and strategy for achieving an over-arching objective: ***"A systematic and comprehensive restoration plan needs a clearly stated strategic view of what each major scientific component of the plan is intended to accomplish and how this will be done."*** The DSC Plan seems to suffer from the same problem. The DSC Plan needs to follow the NAS' recommendation for the ***"need for clear goals and integrated goals"*** in order to be successful.

To use an analogy, the DSC Plan should operate like a car's GPS navigation system. When using a vehicle GPS system, you first enter the specific destination (address). Once the destination is input, the GPS gives an option of three different routes to take to the same destination. You can also give it specific directions to avoid freeways and road detours, and the GPS will automatically re-route itself if you make a wrong turn or come upon a road closure, but you will always end up at the same destination no matter how your route changes.

The DSC Plan fails to identify the destination or the turn-by-turn directions to improve the Delta, as required in PRC 85211 and PRC 85308(b). If the DSC Plan did use the GPS model, it would first give us a very specific destination (quantitative/measurable objectives), then provide three different routes (alternatives) to get there. These different routes could serve as the EIR/EIS alternatives or represent the three different routes that the three different co-equal goals (Delta as Place, water supply reliability, and ecosystem restoration) need to take to arrive at the same destination. The amount of time it takes for each route to reach the destination varies, but not widely, which also applies well to a DSC Plan in that all three co-equal goals will require different amounts of time and gas (revenues) to reach their destination. Because GPS automatically re-routes your car when it encounters impediments to its selected route, it very much operates as adaptive management should in the DSC Plan. Monitoring and adaptive management properly constructed will allow the DSC Plan to re-calculate a route when it hits a road block and needs to change course if its measures are found to be detrimental to species, water supply and quality, and the Delta economy or if experience lack of funding. Unfortunately, as currently designed, the DSC Plan lacks a clear destination or turn-by-turn directions, therefore we will all be left wandering lost for another thirty years.

As currently written, the draft of the DSC Plan is a hodge-podge of complicated and confusing "thou shall not" and "if you don't do this, you can't do that" directives that lead to the opposite of the Delta as an evolving place and instead will only serve to have the Delta stagnate and cease to have value as a place for people to live, grow food, work, and recreate. In GPS terms, the DSC Plan wants to tell everyone all of the roads not to take and limit the modes of transportation options they can use, and still expect everyone to reach the same destination. Under this scenario it is likely they will all head in the wrong direction, get lost, and never reach their intended destination. This is something all stakeholders in the Delta have already experienced and it was called CalFED. We all deserve better.

SPECIFIC COMMENTS ON DSC PLAN BY CHAPTER

Comments on Chapter 1
"The Delta Plan"

Page 8, lines 2-4: As currently written, the DSC Plan fails to offer actions/recommendations that "combine and coordinate the diverse efforts of State and local agencies." With over 200 agencies in the Delta with responsibilities and authorities in the Delta, this should have been job number one of the DSC and should be given priority before adopting new regulations. New regulatory authority should not be granted or adopted by the DSC until it has done a thorough job of identifying the various state, federal, and local agencies with existing authorities in the Delta and comparing them to identify where voids in authority may exist. Also, we cannot see how and when the DSC Plan attempts to link its hodge-podge of actions/recommendations, identify how they affect each other, or even identify how their individual actions/recommendations even contribute to achieving each of the three co-equal goals. Every action has a reaction, yet the DSC Plan fails to identify the reaction it hopes to achieve with each action/recommendation or how they each affect each other. Without this analysis, it is very likely that individual actions/recommendations currently in this Plan will conflict with each other, resulting in further degradation of the Delta for each of the three co-equal goals.

Page 8, lines 17 and 18: The DSC missed the mark on collaboration, coordination, and cooperation, as it failed to identify how, when, and where this needs to occur. See comments above regarding lines 2-4, page 8.

Page 9, lines 10 and 11: For reasons stated in our General Comments section above, the NDWA disagrees that the 2012 Delta Plan provides a roadmap or clear goals and objectives. The DSC Plan fails to provide measurable goals and objectives (destination or roadmap) and fails to provide the turn-by-turn directions on how to get there or the process to be followed if you run into a road closure (adaptive management when an action fails to achieve an objective or has opposite affect hypothesized) so that you can stay on course to reach well defined co-equal goals (final destination).

Page 9, lines 14-16: Covered actions under these three categories should also be required to be weighed against the obligation in Water code 85054 (b) to protect and enhance the values of the Delta as an evolving place before being recommended.

Page 10, lines 18-21: This statement should also recognize that water deliveries have also been hampered by lack of storage capacity during wet periods (March 2011) and South Delta pumps being shut down due to maintenance problems, as mentioned on pages 50 and 51 of this Plan. Regulation and court restrictions are ***not*** the only factors currently reducing reliability of water deliveries.

Page 10, lines 29-31: The assertion about 1/3 of Delta irrigators not participating in water quality programs and not complying with state law is overly broad and vague. Most landowners in the Delta participate in various water quality programs and are compliant with state laws. This subjective and broad-brush statement should be deleted or modified to name the specific water quality programs that 1/3 of irrigated lands are not participating as well as reference what state report the 1/3 statistic comes from. The same should be done for the 'not complying with state law' statement, the language needs to reference which Water Code sections that are not being complied with, where this is occurring, and the state report this information comes from, particularly since all lands in the North Delta have the ***right*** to divert water pursuant to the 1981 Contract (Article 8). Unless the statement that Delta irrigated lands may not be complying with the state Water Code can be substantiated with factual information from the SWRCB, then this sentence should be deleted as speculative conjecture rather than fact. Page 51, lines 35-36, site a SWRCB report that actual diversion amounts are unknown and possibly over-allocated is much different than stating in-Delta users may not be complying with state law.

Page 10, lines 37-39: The risk of catastrophic levee failures in the Delta is still overstated and fails to recognize the improvements and proven success over the last 23 years since the funding of the Delta Levees Program began. This is particularly true with respect to many islands in the North Delta, which are not comprised of peat and are not below sea level. Thanks to the Delta Levees Program, nearly all levees in the Delta are above the 100-year floodplain and the failure due to high tides or high flows has been essentially eliminated. Therefore, it is incorrect to assert that the risk "outpaces the State's ability to manage and fund risk reduction measures." We do not believe these statements are accurate. *Continued farming anywhere in the Delta is not at risk even in the event of levee failures, if the levees are ultimately repaired.*

Pages 11 and 12: The lack of vision in this section is both glaring and incomprehensible. It should start with providing detailed definition of each of the three coequal goals in terms of specific and measurable objectives. As stated previously, the primary fault the NAS found with the BDCP was its failure to adequately define measurable goals and objectives against which the rest of the Plan could be evaluated. The DSC Plan needs to do a better job of taking the statutes and translating and expanding them to give us the very specific destination it wants us to end up. The fact that this section fails to even identify a healthy fishery and good water quality in the Delta for 2100 is incomprehensible. Since page 89, lines 33 and 34, recognizes that the "most appropriate land uses as agriculture" as stated in the 1992 Delta Protection Act, this section should explain how large a role agriculture is in the future Delta and how well the Delta Protection Act, and other programs maintaining productive agriculture such as the Williamson Act, has worked to protect agriculture and open space in the Delta for almost twenty years. To truly provide vision, this section needs to identify the measurable goals and objectives (destination) the DSC Plan hopes to accomplish when implemented, otherwise we will wandering lost for the next thirty years and will be no better than CalFED.

Page 11, line 21: We don't know what "inherent objectives" means, but the NDWA would suggest the DSC Plan needs to define measurable goals and objectives, or it is making the same mistake the BDCP was criticized by the NAS.

Page 11, lines 23-25: The DSC Plan needs to start with defining what "restoring the Delta ecosystem and providing a more reliable water supply" means in terms of measurable goals and objectives, otherwise it remains a vague, elusive goal that has a different meaning to every stakeholder in the Delta. Therefore, the coequal goal can never be achieved, because it was not properly defined as measurable goals and objectives (destination). Until this is done it will remain a vague, unknown goal subject to changing whims and political pressures, resulting in the Council saying "bring me a rock", but when you bring it a rock, it says, "no, not that rock, bring me another rock." We will never be able to declare victory without measurable goals and objectives, or change course if we make a wrong turn. This is particularly concerning to North Delta in light of the significant amounts of productive farmland proposed to be converted into ecosystem restoration habitat which is in conflict with both the Delta Protection Act and the requirement to protect the Delta as Place. We need to know when the species are making sufficient progress, to prevent more acres than necessary from being converted from economically productive farmlands to aquatic habitat, which is consistent with Water Code 85054 (b).

Page 12, lines 5 and 6: This should be expanded to also include: "significantly improved water quality in the Delta."

Page 12, lines 19-26: Until the DSC Plan defines goals and objectives (destination) that are measurable, the Plan cannot achieve any of the outcomes listed. Success should not be defined by how many acres are converted into habitat, but instead should be based on species response to actions and making improvements to a defined sustainable population. To do otherwise, will leave us in a Never-Neverland of never being able to claim victory and vulnerable to subjective whims and political pressures on what constitutes success.

Page 13, lines 6 and 7: The NDWA respectfully disagrees that the DSC Plan adequately identifies key milestones or the ability to evaluate the performance of any of the actions or

recommendations in the DSC Plan. Again, we would argue that the DSC cannot just rely on statutory wording of water supply reliability, ecosystem restoration, and Delta as an evolving place as a destination; as these terms are too vague, subjective and open to differing interpretations by every stakeholder and government agency operating in the Delta. The DSC cannot consider adoption of a Plan until it defines these three terms in measurable goals and objectives. Until this is done, the DSC Plan will continue to suffer from the same primary problem identified by the NAS for the BDCP and Delta stakeholders will lack the certainty they need to continue investing in the Delta.

Page 15, lines 32-34: We fail to see how an assessment of progress can be made without measurable goals and objectives being clearly defined so they can be measured against specific baseline conditions that also still need to be identified.

Page 16, lines 38 and 39: Adaptive management cannot be applied to the DSC Plan until the Plan provides measurable definition of what constitutes achieving success for each of the three co-equal goals and therefore cannot serve as a tool to evaluate success of the DSC Plan without first defining measurable goals and objectives and accurate baseline data in which to measure them against.

Recommended Additions to Chapter 1

Equal Time to Positives – The DSC Plan seems to focus on the 'sky-is-falling Chicken Little' mentality of everything is negative, and many of them are inaccurate and exaggerated beyond the reality. There are many things that are positives in the Delta that need to be identified so they can be built upon in order to achieve progress toward the three co-equal goals. Examples include the Delta Levees Program which has resulted in less levee failures since it has been funding levee improvements for almost thirty years, the 1981 Contract successfully protecting water supply reliability and quality in the North Delta for thirty years, the adherence to protecting the Delta Primary Zone by the Delta Counties and the Delta Protection Commission, and in-Delta projects such as fish screen installments (RD 999) and larger projects by Contra Costa Water District to improve water quality and provide drought protection (water supply reliability for their service area). As currently written, the DSC Plan describes the Delta as having been so injured over the years of abuse that it is now on life support and should just have its plug pulled. Nothing could be further from the truth. The Delta ecosystem is certainly on a critical list and is affecting the reliability of water supply, but the Delta economy and its levee systems have been getting better, not worse.

- Chapter needs to expand on the positive values and programs/policies in the Delta.
- The DSC Plan needs to have a process to weigh all of its actions, measures, and programs against their potential to drag the Delta as Place down to the same level as the other two co-equal goals.

Define Co-Equal Goals – The State Legislature provided very broad, general goals for the Delta Plan to achieve water supply reliability, improve the ecosystem, and protect the Delta as an evolving place. Each of these goals have different meaning to every stakeholder involved in the Delta

- Adopt definition of what each of the three coequal goals would look like once achieved. In GPS terms, this is the address of your destination for each goal.

Goals and Objectives – These need to be specific, descriptive, measurable targets that are tied to achieving one or more of the three co-equal goals. Each objective should describe its expected outcome and how they relate and impact the other objectives.

- The DSC Plan should describe a process for each of the measures, recommendations, actions, and programs to evaluate its impacts to each other and to achieving each of the objectives in order to avoid an action improving one goal, but being detrimental to another goal. In GPS terms, they are the turn-by-turn directions and landmarks to get you to your destination.

Process and Criteria – The DSC Plan does not provide a methodology for individual recommendations, policies, regulations, and actions to be evaluated in terms of how they affect each other.

- Specify the criteria for actions to be evaluated against each other based on the measurable objectives and a process for this evaluation to occur before they are approved for implementation. This should work on the 'do no harm' theory.

Actions and Measures – Each action and measure in the DSC Plan should identify its expected outcome both individually and cumulatively when combined and its expected level of progress it is expected to make in achieving ***each*** of the three co-equal goals, and its potential to have detrimental impacts on ***each*** of the three co-equal goals.

- Every action has a reaction and the hypotheses on each of the actions should be identified before implementation so that progress/digression can be measured during the monitoring and adaptive management phase.

Agency Coordination – With over 200 agencies with varying levels of responsibility and authority associated with achieving the three co-equal goals, an initial important task is for the Council to provide coordination among agencies. This will prevent overlap and duplication of effort as well as save money and will also allow the Council to determine where there might be a lack of authority to implement an objective so the Council can make a recommendation on which agency should assume the responsibility.

- Council should identify how each of the 200 agencies with authority in the Delta will implement specific quantified and measurable goals. This evaluation of existing federal, state and local agency authority also needs to offer recommendations on how, where, when, and which agencies need to be doing better cooperation and coordination on specific measurable goals mentioned above.

Building Blocks – There are many things enacted over the last thirty years that have a proven track record of success regarding goals for the Delta as stated in PRC Section 29702. For instance the Delta Levees Program created by SB 34 in 1988 that has resulted in an increased level of protection for Delta levees during the last 23 years, but its current cost share is due to sunset and should be legislatively extended and funded. There is an abundance of cultural events to highlight as the Delta is well known for many festivals such as the Pear Fair, Isleton Cajun Festival (formerly the Crawdad Festival), Taste of the Delta, Stockton Asparagus Festival, Manteca Pumpkin Fair, Reggae on the Delta, Sandhill Crane Festival, Bob McMillen Memorial

Fishing Tournament, Stockton's Annual Lighted Boat Parade, and let's not forget the infamous annual Bikini and Wet T-Shirt Contests at Lost Isle. There are over 100 marinas, waterside resorts, and RV parks and you can still ride a ferryboat or travel over a working drawbridge in the Delta, but for how long unless the DSC Plan contemplates their continuation?

- There are many other examples of successful programs, policies, events or other things in the Delta that should be highlighted as working towards achieving goals of protecting the unique cultural, recreational, natural resources, and agricultural values and improving flood protection in the Delta. Each building block mentioned would indicate which chapter describes that program/event and why it has been successful and where and how it could be duplicated, supported, expanded, improved, etc. Although the Economic study to be submitted to the Council by the DPC may cover many of these items, in the meantime, the DSC staff could refer to the California Delta Chambers & Visitors Bureau's website at www.californiadelta.org and the DPC website to get information on the unique cultural, recreational, natural resource, and agricultural values of the Delta.

Spatial Timeline – The DSC Plan lacks a timeline for making progress on achieving the three coequal goals, which also needs to be identified in specific, measurable goals and objectives yet to be identified by the Council.

- Provide near-term, mid-term, and long-term timelines for each policy, recommendation, regulation, and action.

Comments on Chapter 2
"Science and Adaptive Management for a Changing Delta"

Page 21, lines 12-14: Until the DSC Plan provides 'specified objectives', there is no way for adaptive management to be applied. As stated earlier, if the DSC Plan provides definition of destination (specific objectives), then identifies the various routes (alternatives) to choose to get to that destination, then the adaptive management framework will allow the chosen route to be re-calculated if it stumbles upon an unanticipated road block, allowing the progress to the destination to get back on track. This is critical since all of the ecosystem restoration measures have such a high degree of uncertainty. Failure to adequately define specific objectives (destination), will prevent even the best adaptive management framework and process from identifying when a wrong turn is made on the way to our destination. We would argue that water supply reliability, ecosystem restoration, and Delta as an evolving place are not adequate descriptions of a destination that any sort of progress can be measured in terms of the route chosen.

Page 22, line 20: Should be expanded to include "and baseline condition."

Page 22, line 21: Should be expanded to include "that are specifically defined and measurable."

Page 23, lines 13-18: This first step should include the DSC Plan identifying which one of the 200 government agencies has responsibility and authority to address the problems identified, how multiple agencies can coordinate their authorities if more than one, or identify any voids where a government agency does not currently have the authority to address the problem.

Page 24, lines 3 and 4: The NDWA supports this language to have the DSC Plan identify specific goals so that adaptive management can measure the response of the action to see if it is in fact improving the baseline condition and headed to the desired outcome. Unfortunately, the DSC Plan fails to provide "quantitative, specific statements of desired outcomes" and is therefore making the same mistake that the BDCP was criticized by the NAS.

Page 24, lines 7 - 21: The DSC Plan fails to properly identify measurable expectations, assess the likelihood of success, or identify tradeoffs necessary for model linkages between objectives and proposed actions. Is also fails to "provide a road map for testing hypotheses, which are statements that describe the expected outcomes." We would also suggest that the model should also provide statements on how each of the hypotheses work together with the others. In fact, the DSC Plan does not even provide alternatives from which to choose, but instead only has one path with a hodge-podge of disjointed actions and recommendations. DSC Plan has much work to do in order to "provide a visual illustration of the most critical cause and effect pathways" (lines 15-16).

Page 24, line 23: The NDWA supports the concept of having an open and transparent process whereby the DSC selects and evaluates individual actions or suite of actions based on specific measurable objectives that have been clearly articulated, but unfortunately, the DSC has not done so and therefore the DSC Plan is woefully inadequate as a plan that adaptive management can be applied. The need to do this evaluation is particularly critical since line 29 points out there are "irreversible consequences" that could occur "for wrongly predicting the outcomes of the action," and most of the ecosystem restoration projects have a high degree of uncertainty. For North Delta, this failure to follow scientific procedures could have devastating effects due to the amount of habitat restoration proposed in the NDWA's boundaries. None of the actions in the DSC Plan appear to be actions that "should test cause and effect relationships" as recommended in line 31. Until this level of evaluation is done by the Council, there is no way for the NDWA to determine the impacts of the DSC Plan on the North Delta or be able to identify the mitigations that need to be done pursuant to an EIR/EIS.

Page 24, line 36: The NDWA supports the concept of "clearly describing specific activities that will occur under the selected action(s)," and this is a requirement of PRC 32364.5(b)(3) and (4.) This is equivalent to identifying the turn-by-turn directions necessary to reach your destination under the GPS analogy. This would allow the NDWA to determine if there is any impact to North Delta and the 1981 Contract, decide whether to support or oppose that activity, and offer suggestions for mitigations if it identifies negative impacts. We also agree with assuring the design step includes identifying adequate funding and would go further to request that no project/action be able to reach construction phase without securitized funding in place for long term management, neighboring landowner impacts, and in-lieu tax reimbursements.

Page 25, lines 1-27: We agree with the description of the monitoring management plan, which is consistent with complying with PRC 32364.5(b)(3), and would request that no project/action be allowed to reach construction without a well-defined monitoring management plan developed in an open, public, and transparent manner in place.

Page25, lines 34-42: This analysis and synthesis is particularly important in light of the tens of thousands of acres of habitat restoration proposed in the North Delta. This evaluation will confirm whether species are responding as predicted and prevent further habitat projects that

may not in fact benefit the species to a level of significance. This is necessary due to the high level of uncertainty regarding many of the habitat restoration measures currently being contemplated.

Page 28, lines 1-26: It makes sense how these guidelines and criteria would work for covered actions that are habitat restoration projects where you can measure the species' response to the habitat, but it is unclear how another type of covered activity such as building a garage, paving a road, installing a new dock at a marina, or some other project can be applied. Is this section only intended to apply to habitat covered actions? If so, then it should be made clear.

Page 30, lines 1-35: We are pleased to see that the scientific research proposes including local experts and communities to focus and define research topics.

Page 31, line 5: After 'scientists', add: 'local communities.'

Recommended Additions to Chapter 2

Changing Course – This section should also describe the process and criteria to be used for determining whether specific measures/actions should be stopped, expanded, or modified. Adaptive management needs to be very clear on process for what happens if the reaction from individual or combined actions results in further degradation of one of the three co-equal goals or measurable objectives, in light of the high level of uncertainty associated with many water supply and habitat restoration projects under consideration.

- Each ecosystem measure/action/project should require a management plan and securitized funding to pay for project management, neighboring landowner impacts, and in-lieu taxes and this section should specify the detailed process to be followed if the project's management plan is not being followed or funding not being provided.

Model Linkages – Need to also describe how hypotheses are expected to complement or conflict with each other and offer alternative hypotheses to choose from if one is not performing as expected.

- Describe process for making changes to actions that are not performing as hypothesized or intended.

Comments on Chapter 3
"Governance: Implementation of the Delta Plan"

Page 35, line 11: Is the 'certificate of consistency' a document provided by the Council for a person with a covered activity? If not, then there will be no consistency in the type of disclosures and elements in the certificates submitted to the Council and it becomes a very subjective, rather objective decision on whether the project/action is consistent with the Delta Plan.

Page 36, lines 1-7: This section is woefully inadequate and the Council should spend time on expanding this section to identify specific actions for the Council to take to coordinate Federal, State, and Local Agencies. As mentioned previously, with over 200 agencies with jurisdiction in

the Delta, many with existing regulatory and planning authority, the most important near-term role that the Council can play is to catalogue the existing authority of each agency to: 1) determine where there is overlap in order to avoid conflict in actions and funding; 2) connect which agency can use their authority to oversee implementation of specific actions/projects; 3) identify gaps where there is not existing authority among the 200 agencies so that Council can recommend new authorities that need to be approved by Legislature. The DSC needs this baseline information to understand who has the authority to implement actions/projects proposed in the DSC Plan.

Page 37, line 15: In reality there are three coequal goals because all of the actions/projects need to weighed against achieving protecting and enhancing the Delta as an evolving place. Recommend 'both' be changed to 'three' so that it clearly includes Delta as place, consistent with Water Code 85054.

Page 39, lines 1-31: It is difficult to understand exactly what "consistent with the Delta Plan" means because the DSC Plan does not have specific measurable objectives identified or even criteria that must a covered project could evaluate against. Because every person will have a different definition of what water supply reliability, ecosystem restoration, and Delta as Place means in terms of the DSC Plan, and because it is not defined in the Plan, it will be a completely subjective determination of whether a project/action is consistent or not. Individuals and entities that need to do covered actions need more definitive descriptor of Delta Plan in order to file a certificate of consistency referenced on page 35, line 11. A checklist is a good start, but it will need to be specific to avoid subjective and inconsistent determinations and to provide certainty for applicants.

Page 39, lines 14: What happens if the covered action project is *not* implemented as described in the finding of consistency? Also, how does the Council plan to track implementation?

Page 39, lines 13-18: If a covered action also requires an EIR/EIS, will that suffice as complying with these items? How long does adaptive management have to occur on a covered action, say for example a housing subdivision? Once the houses are sold, does the new homeowner assume the responsibility and liability?

Page 39, lines 38 and 39, [G P1]: It makes sense how and why we need ecosystem restoration and water management decisions/projects to have financing over the long term, but more difficult problem is how this will apply to housing, a shopping mall, a school or other covered actions that are likely to occur as the Delta evolves as a place and must accommodate its population growth.

Recommended Additions to Chapter 3

Agency Coordination - With over 200 agencies with varying levels of responsibility and authority associated with achieving the three co-equal goals, an initial important task is for the Council to identify how each of these agencies can play a role in implementing and achieving each of the measurable goals to be identified as mentioned above. This will prevent overlap and duplication of effort as well as save money and will also allow the Council to determine where

there might be a lack of authority to implement an objective so the Council can make a recommendation on which agency should assume the responsibility.

- An evaluation of existing federal, state, and local authority also needs to offer recommendations on how, where, when, and which agencies need to be doing better cooperation and coordination on specific measurable goals mentioned above.

Agency Accountability – Once the Council has identified measurable objectives, specific actions to be implemented to achieve those objectives, then they should identify the agencies charged with using their existing authority to implement the action.

- Identify a process by which each of the agencies report on their progress in implementing their assigned actions as well as outcomes of each actions to date. The process will need to identify the Council's role in responding to failure of agency to make progress on an action such as helping to secure more funding if that was agency's reason for not being able to make progress on implementation of their assigned action.

Willing Seller – To encourage collaborative approach and local support, the DSC Plan should make it clear that for actions implemented to achieve ecosystem restoration goal, the Plan should focus first on publicly owned lands and only use willing seller for private lands needed.

- Consistent with the Delta Conservancy policy in PRC 23266 & 32370, the DSC should also preclude the use of eminent domain (except when requested by the landowner) to obtain habitat and include strong policies to coordinate with local agencies and landowners in planning and implementing habitat projects.

Compensation Process – Based on detrimental third-party impacts being experienced by landowners in the San Joaquin Restoration Agreement governance needs to include a process by which landowners in the Delta that are harmed by implementation of actions implemented in the DSC Plan can apply for compensation.

- No covered action associated with water supply reliability or ecosystem restoration should be approved until this process and funding is in place. This will help to reduce litigation against actions implemented pursuant to the DSC Plan.

Comments on Chapter 4
"A More Reliable Water Supply for California"

Page 47, lines 19-21: By definition using Delta water in the Delta ***is*** regional self-reliance as we are using area of origin water and not relying on imported water, so do not understand why using Delta water in the Delta should require a covered action in the Delta to comply with WR P1, WR P2, or WR P3, including specific programs and projects that contribute to the 'improvement of regional self-reliance and reduced dependence on the Delta' required on lines 34-42. The NDWA 1981 Contract specifically did not limit water use in the North Delta to an acre foot amount because Article 8(a)(ii) of the 1981 Contract is intended to allow for growth in the North Delta, and has no limits other than the water is being reasonably and beneficially used for agricultural, municipal and industrial purposes. The 1981 Contract also requires the State to furnish sufficient amount of water to meet this needs. In addition, under the 1981 Contract the NDWA makes an annual payment to DWR for that water supply and therefore its water users should not be obligated to comply with this regulation since it's already covered in the 1981

Contract. We assume lines 19-21 is intended to apply to a water export facility or aquatic habitat project necessary as ESA incidental take permit condition (biological opinions), but it should not apply to in-Delta covered actions where the benefits of that project/action remain in the Delta, e.g.: a new water intake in the North Delta to service the portion of the City of West Sacramento that is within the North Delta boundaries and covered by the NDWA 1918 Contract. This regulation should be amended to clarify what kind of covered actions it applies to and the ones it does not.

Page 54, lines 32-39: In order to comply with PRC 85308(b) & (d), this section needs to identify baseline condition, specific measurable objective for each, and consequences if you don't achieve. Not sure how the Council can effectively measure performance without current status and specific target. Should also consider developing incentives for entities to contribute towards achieving these broad goals.

Recommended Additions to Chapter 4

In-Delta Water Supply Reliability – The DSC Plan fails to describe the importance of water supply reliability for the Delta, which is certainly an important item to achieving protection and enhancement of the values of the Delta as an evolving place. Since agriculture is the primary land use in the Delta and should be a goal to be maintained through 2100, then a reliable water supply is necessary to achieve that goal.

- If water supply or ecosystem projects implemented pursuant to the DSC Plan have an effect on water elevations, this would certainly have an effect on access to water by in-Delta diverters and would need to be mitigated.

In-Delta Assurances - When something that was developed in a cooperative manner has been proven to work, then it seems it should be considered as a positive model to be duplicated and should be offered as a DSC Plan recommendation.

- Mentioning how the NDWA's 1981 Contract as an example of a successful action already taken (30 years ago) to protect water supply reliability should be mentioned in the DSC Plan and considered for other parts of the Delta.

In-Delta Protections – Water supply reliability and habitat restoration projects may degrade Delta water quality.

- The DSC Plan should identify criteria to be met in order to protect in-Delta water supply for any project proposed as an action in the DSC Plan as a measure to contribute to water supply reliability including related ecosystem restoration projects.

Comments on Chapter 5
"Restore the Delta Ecosystem"

Page 62, lines 7-13: While the factual information regarding the number of levee miles constructed and how long ago domestication occurred is true, postulating that these activities are the cause of the species decline is opinion, speculation, and incorrect. Certainly true that land/water manipulation had some level of impact between 1850 and 1917, but the DSC Plan

needs to accurately reflect its level of contribution to species decline. If Delta levees have been in place for 160 years, but the aquatic species did not begin significantly declining until the last 10-20 years, then it is more accurate to state the existence levees had minimal impact on the native species for more than 100 years. Therefore, the decline of species populations seems to correlate with man building reservoirs and exporting water in the mid-20th century than the levee infrastructure in place since the late 1800s without any recordation of significant species population decline. The wording of this section needs to be modified to make clear that the domestication resulted in modification of the species' habitat, but not their species population based on historical fish numbers between 1880s and 1980s.

Page 64, lines 1-10: We agree with the five criteria for measuring success and would like to see the DSC Plan make meeting these criteria made into a policy that must complied with before construction of a habitat restoration project. The policy should include one more criteria: 1) require securitized long-term funding to pay for management of the project, payment of local in-lieu taxes, and compensation to neighboring landowners that may have damage to their lands from the project.

Page 66, lines 34-37: The majority of 1,100 miles of levees in the Delta were built in the late 1800s and the last Delta island was formed with levees around 1917. In fact, if you took a 1920 map of the Delta and superimposed it over the 2011 Delta it would look essentially identical, except the addition of the Deep Water Ship Channel. Therefore, with all due respect to Doctors Healey, Moyle, and Baxter referenced on line 19, there has *not* been "rapid and dramatic" land alterations for more than 80 years. Since the altered landscape existed since 1880s thru 1920s, but fish populations did not show significant decline until the late 20th century, more than seventy years after the final alteration of the Delta to what it is today was complete, so this conclusion is factually untrue. We have all of the documentation regarding when these levees were constructed and islands formed and they **DO NOT** correlate with when the aquatic species began to decline. We will provide this factual documentation if requested. It is particularly offensive since the language stating the rapid decline in habitat led to species population declines is bolded for emphasis on lines 35-37. It is true the landscape was rapidly altered to create the Delta today which certainly altered the species habitat, but it was in place for 40-100 years before the species populations began to decline significantly. Most of the fish species were not listed until the 1990s, almost 70 years after Delta reclamation was completed. This language should be amended to say this landscape transformation altered native aquatic species habitat and ***delete*** reference to causing species declines.

Page 67, lines 27-30, [ER P4]: Setback levees are not feasible in areas that are already in farming and other uses. Setback levees that interfere or result in taking of existing permanent crops and homes should not be a priority. The caveat of setback levees "where feasible" has been removed and is a significant step backward for this process and should be added back in.

Page 68, line 9, [ER R2]: 'Recommendation' should be changed to 'Require.'

Page 68, lines 4-6, [ER R2]: Add following new sentence to this bullet: Include water quality as a criteria to be maintained with implementation of large-scale ecosystem restoration in the Delta.

Page 68, line 17: Add following language: The protocol should focus on publicly owned lands first and require willing seller for private lands wanted for habitat restoration, which complies with PRC 32366..

Page 69, lines 7-8, [ER R3]: Most members of the public do not have copies of the referenced report, so the DSP Plan should explain the actions to be implemented instead of having us look for a report. Full description is more transparent to the general public.

Page 69, lines 8-33, [ER R5]: It should not be presumed that the BDCP would be beneficial or meet the coequal goals. Should the Council proceed with ecosystem and conveyance planning recommendations independent of BDCP, it should fully consider all feasible alternatives to construction of major new conveyance facilities in the North Delta that would reduce or avoid environmental and other impacts (e.g., suites of options such as continued through-Delta conveyance, reduced water exports/water conservation, and increasing groundwater/aboveground storage).

Page 69, line 40: "Viable populations" is vague and open to varying interpretations, so the Council should define this measure further in the DSC Plan. There is no way for performance to be measured without identifying current population and target population that represent a 'viable population.' To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination.

Page 69, line 41: "Functional corridors" is vague and open to varying interpretations, so the Council should define this measure further in the DSC Plan. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, line 1: "Diverse" and "appropriate" are very vague, subjective words open to varying interpretations, so the Council should define this measure further in the DSC Plan. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, line 2: To what level should threats and stresses be reduced? What are the threats and stresses meant here? To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, line 3: Another measure with vague, subjective words, such as "conducive" and "exceeding" that are open to varying interpretation. Also, the DSC Plan should identify which existing recovery plans and the government goals this measure will use for measuring performance. Which plans? Which goals? DSC Plan should define these so that performance can be measured and so proposed covered actions understand whether they are consistent. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, line 7: Without the DSC Plan identifying a species population target as a measurable objective, it will be difficult to determine how much habitat restoration should occur. Success in species recovery should be based on species population, not the number of acres converted into habitat, especially since page 65, lines 41-44 state that "changing land cover patterns (e.g., increasing open water areas) does not automatically lead to increases in specific target species if detrimental conditions (e.g., poor water quality or high entrainment or predation risk) make these areas unsuitable as new habitat." In addition, would offer that if species populations do not rebound after large-scale habitat restoration, then land conversions should be re-evaluated as a conservation measure for the DSC Plan to continue, so other more effective measure can be tested instead.

Page 70, lines 9-10: How much corridor habitat should be established? Where? Need a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, lines 11-12: Another measure with vague, subjective words, such as "self-sustaining", "diverse", and "reducing" that are open to varying interpretation, so the DSC Plan should define this measure further with specific targets with measurable objectives. What are "valued species"? This is a term without definition and therefore has no meaning that can be measured. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, line 13: Restore to what? What is a healthy estuary? Too vague and open to varying interpretation. To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, lines 14-15: Improve to what level? What baseline does the improvement start from? Whose goals? Every constituency in the state will have different goals for drinking water,

agriculture, and ecosystem. What are these goals? To comply with PRC 85211 and PRC 85308(b) & (d), the DSC Plan needs a target or destination for the DSC Plan to measure against. Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Page 70, lines 16-17: Use of vague and undefined words to describe level of habitat restoration such as, 'necessary,' 'net loss,' 'increase,' and 'viable populations,' are open to varying interpretations and therefore cannot be measured in terms of performance of the DSC Plan.

Page 70, lines 20-36: Without knowing the exact baseline the DSC Plan is starting from or the specific target to be achieved, it is difficult to know whether the DSC Plan will be making progress in terms of the listed species. For instance, in lines 23-24, the DSC Plan should define the numeric number associated with 'doubling goal' for fish species in order for the general public to understand the true goal.

Page 71, lines 3-6: Should identify where 'all migratory routes' and 'contiguous corridors' are located and how much is needed, so its impact on Delta as Place can be determined and mitigated if necessary for CEQA/NEPA.

Recommended Additions for Chapter 5

Species Abundance – The narrative language in this chapter, like all of the others, focusing on the negatives regarding species and habitat without accurately reflecting the Delta as a place that has abundant species that have evolved and adapted to the complex web of existing habitats. The Delta is home to approximately 230 species of birds, 45 mammal species, 52 fish species, 25 reptiles and amphibians, and 150 species of flowering plants, so by anyone's standards it has incredible species diversity. Unfortunately, the DSC Plan fails to celebrate the Delta's incredible bragging rights regarding species diversity and abundance, identify where and why those species exist, or plans for protecting those existing species. Many of the terrestrial species of the Delta, including the Pacific Flyway species, utilize farmland to live, nest, and feed, yet the DSC Plan does not even mention agriculture land use as habitat. Instead it seems to refer to agriculture as altering the landscape and an activity that will be converted to restored landscapes.

- The DSC Plan needs to exert more effort into balancing how existing land uses are benefitting species and how they should be continued, instead of only looking at how to turn back the clock and convert lands to a pre-gold rush habitat.

Recognize Existing Habitat Values –The Delta already includes significant open space, habitat and migratory bird corridors, including the Pacific Flyway.

- Should describe the significant existing habitat values maintained in the Delta on agricultural lands and identify policies to protect and maintain those values through incentives such as conservation easements or payment of Williamson Act.

Protect Existing Species – The DSC Plan fails to provide policies or recommendations on how to protect existing habitats to terrestrial species, which is dumbfounding based on the number of plant and animal species need to be protected over time to prevent them from becoming listed

species. If these programs/policies are working, then should they be expanded? Funded? Duplicated? Are they enough, or is something more needed?

- Need to develop recommendations for protecting existing policies/programs and should start with identifying and supporting existing plans that have been developed for Suisun Marsh, Yolo Wildlife Refuge, Stone Lakes Refuge, County HCPs, and other areas including agriculture and open space.

Define Healthy Ecosystem – PRC Section 29702 and other codes sections charges the Council with "protecting, restoring, and enhancing the Delta ecosystem." Unfortunately, this directive lacks definition and therefore means something different to every constituency and stakeholder involved in the Delta. The DSC Plan first needs to define what a healthy Delta ecosystem means, then further define terms such as "viable population," "functioning corridors," "diverse," and others used throughout this chapter and then specify measurable objectives that would contribute toward progress in improving any of the defined goals for species. Once goals and objectives have been spelled out for species (consistent with PRC 85211 and PRC 85308(b) & (d)), then the plan can identify actions, including habitat actions, to be done to make progress toward those species objectives. Recommending habitat changes without knowing the species objectives seems to be putting the cart before the horse. What are "valued species"? This is a term without definition and therefore has no meaning that can be measured.

- Identify a target or destination for the DSC Plan to measure against, which is required in PRC 85211 and PRC 85308(b) & (d). Once we know the destination, then the plan should offer optional routes with different turn-by-turn directions to select from to get us to that destination. Also should recommend locations in the Delta this is expected to occur, otherwise there is no way for EIR/EIS to mitigate this measure.

Starting Point – DSC Plan should start with the exact baseline the DSC Plan is starting from or the specific target to be achieved, otherwise it is difficult to know whether the DSC Plan will be making progress in terms of the listed species. For instance, in lines 23-24, the DSC Plan should define the numeric number associated with 'doubling goal' for fish species in order for the general public to understand the true goal. Doubling of a fish species only has meaning if it has a starting point. The number may exist in another agency's policy, but it should be clearly stated here, which is necessary to comply with PRC 85211 and PRC 85308(b) & (d). Then is should determine if specific objectives needs to be set for the other 230 species in the Delta.

- Each objective, recommendation, policy, regulation, and action should identify the baseline it is starting from.

Species Viability – If the reason for doing ecosystem restoration in the Delta is to "restore fisheries and wildlife to include more viable populations" as stated on page 61, lines 11-12, then it seems then the DSC Plan needs to define existing species, define what viable populations means for the species, types of habitats currently used by these species that needs to be protected, and types of habitats that need to be expanded to achieve the defined viable population.

- Define viable species in terms of population and habitats available and needed.

Avoid Negative Impacts - The DSC Plan should make meeting the criteria on page 64, lines 1-10, a requirement to be met before construction of a habitat restoration project can proceed.

- The policy should include other criteria to be met: 1) require securitized long-term funding to pay for management of the project, payment of local in-lieu taxes, and compensation to

neighboring landowners that may have damage to their lands from the project; 2) must not reduce water quality by increasing salinity; 3) must not reduce flood system functionality or level of protection. Requiring projects to meet this criteria will contribute toward the protection of Delta as Place.

BDCP - It should not be presumed that the BDCP would be beneficial or meet the coequal goals.

- Should the Council proceed with ecosystem and conveyance planning recommendations independent of BDCP, it should fully consider all feasible alternatives to construction of major new conveyance facilities in the North Delta that would reduce or avoid environmental and other impacts (e.g., suites of options such as continued through-Delta conveyance, reduced water exports/water conservation, and increasing groundwater/aboveground storage).

Habitat Land Policy – The DSC Plan should make it a policy to have habitat restoration projects first utilize public lands to reduce impacts on Delta economy and tax base and require willing seller for any private land purchases consistent with policy for Delta Conservancy (PRC 32366).

- This policy of publicly owned lands first and willing sellers only should be incorporated into the ER R1 regarding protocol for Wildlife Conservation Board, DWR and DFG.

Nexus and Conflicts – The DSC Plan should not recommend habitat restoration projects as proposed in ER R1 without first having species goals and objectives, habitat goals and objectives that align with the species goals and objectives, identifying the nexus between habitat projects and the three co-equal goals including detrimental impacts may have on any of the three co-equal goals, and measurable criteria to measure whether progress toward species goals and objectives are being met.

- Prohibit implementation of habitat projects until the effects between various actions have been evaluated against the quantified and measurable goals, objectives, and coequal goals, consistent with PRC 85211 and PRC 85308(b) & (d).

Willing Sellers – The willing seller requirement for habitat projects protects existing habitat and species, and promotes a positive, collaborative approach to new land acquisitions and protective easements.

- The Council adopt the same policy for the Delta Conservancy (PRC 32366) to preclude the use of eminent domain to obtain habitat (unless requested by the landowner) and include strong policies to coordinate with local agencies and landowners in planning and implementing habitat projects.

Fund Third-Party Impacts – The Delta region should not be saddled with unmitigated impacts and disproportionate burden for improving habitat, because persons in one county should not compelled to subsidize, even at fair market value, the construction of a project that will entirely benefit persons in another county. Creating aquatic habitats are likely to create negative impacts to third parties including seepage damage to crops, erosion of levees protecting lives and property, entice listed species to areas creating ESA burdens, alter water elevations and access to water supply, and other impacts. In addition, there may be statewide benefit actions that the DSC Plan recommends pursuing such as in ER P4 (setback levees) to increase aquatic habitat that should not be the financial responsibility of local landowners, especially if the projects benefit the ESA compliance for SWP and CVP.

- Establish a fund to pay for third party impacts and projects that benefit other areas of the state.
- Evaluate Delta Conservancy's progress in facilitating safe harbor agreements and take protection pursuant to PRC 32322(b)(11).

ESA Protection – Similar to the protections afforded diverters in the San Joaquin River federal legislation, the State and Federal resources agencies should provide ESA/CESA take protection to neighboring landowners, and the assumption of financial liability for relocations and protective devices necessary to meet the objectives of ESA/CESA required for water supply reliability in areas outside of the Delta.

- The development of such agreements should be expedited, to aid in complying with PRC 32322(b)(11).

Respect Local Plans and Protections – There are plenty of examples of the "building blocks" of success that should be the foundation for the DSC Plan as mentioned in Chapter 1 recommendations and considered for duplication, support, and coordination. Even the NDWA 1981 Contract can be considered as contributing to the health of aquatic species since it maintains the historical freshwater levels that essentially existed prior to the CVP and SWP being built (historical aquatic habitat conditions in the North Delta) and therefore could be one of the building blocks of the DSC Plan of how protections to maintain Delta as Place and historical habitat conditions can be maintained over the long term.

- Adopt a policy requiring any habitat projects, including those in ER R1, comply with ecosystem plans or other agreements developed for those regions such as the 'Suisun March Habitat Management, Preservation, and Restoration Plan EIS/EIR,' the 'Yolo Bypass Wildlife Area Land Management Plan,' County HCPs, or other agreements that have criteria that result in protection of species such as the NDWA 1981 Contract which assures fresh water that benefits aquatic species and terrestrial species utilizing farmland that requires fresh water to grow its crops/habitat.

Delta mitigation – All five Delta Counties already are working on HCPs that will remove lands from availability to RDs or others that need to mitigate their projects.

- The amount of land allowed to be used as habitat to benefit areas outside of the Delta, such as for ESA requirements for the operation of the SWP and CVP, should be regulated to assure that sufficient lands remain for local entities such as a reclamation district to use for mitigation of a levee improvement project such as setback levee or to keep up with sea level rise.

Setback levees - Setback levees are not feasible in areas that are already in farming and other uses. Setback levees that interfere or result in taking of existing permanent crops and homes should not be a priority, but be considered "where feasible."

- The caveat of setback levees "where feasible" has been removed and is a significant step backward for this process and should be added back in.

Secure Funding – Particularly since habitat projects are intended to last in perpetuity, it is important that sources of long-term funding be made available.

- Establish fund for land/project management, in-lieu taxes, third-party compensation, and ESA compliance for neighbors be required to be in place before projects can be green-lighted to proceed to construction/implementation.

Comments on Chapter 6
"Improve Water Quality to Protect Human Health and the Environment"

Page 75, line 3: Since water quality [low salinity levels] is critical to the agricultural economy of the Delta, the title should be expanded to include "Delta Economy," after 'Human Health.'

Page 79, lines 35-37: The "Historical Freshwater & Salinity Conditions in the Western Sacramento-San Joaquin Delta & Suisun Bay" report, dated December 2009, by Contra Costa Water District refutes the conclusion that native fish evolved in a variable salinity environment in the historical Delta. The CCWD report reviewed more than 100 years of studies, monitoring data, scientific reports, and modeling analyses that establish the historical salinity conditions in the Delta that confirm the opposite conclusion, that there was very little salinity variability because the Delta was predominantly a freshwater system for 2,500 years, even during century long droughts, until the early 1900s. Reclamation District salinity records in the North Delta (can be provided upon request) and the government studies used to develop the salinity criteria for the NDWA 1981 Contract also confirm CCWD's report that "Before freshwater diversion increased in the 1940s, the Delta and Suisun Bay would freshen every winter, even during the extreme drought of the 1930s." Plenty of historical records, data and documents exist regarding Delta salinity including the 1928 "Salt Water Problem, San Francisco Bay and Delta of Sacramento and San Joaquin Rivers" paper by Thomas H. Means which states: "Under natural conditions, Carquinez Straits marked, approximately, the boundary between salt and fresh water in the upper San Francisco Bay and delta region of the two tributary rivers – the Sacramento and San Joaquin. Ordinarily salt water was present below the straits and fresh water was present above. Native vegetation in the tide marshes was predominantly of salt water types around San Pablo Bay and of fresh water types around Suisun Bay . . ." and "The definite statement that salt water under natural conditions did not penetrate higher upstream than the mouth of the river, except in the driest years and then only for a few days at a time, is warranted . . ." Therefore, the sentence regarding evolving in a variable salinity historical condition should be deleted unless it can be substantiated with historical salinity data showing specifically where, when and at what levels this variability existed historically AND scientific data on native fish ***needing*** 'seasonally and inter-annually variable salinity,' otherwise this is just a man-made assumption, and should NOT be used by the Council to develop policies on fish habitat restoration.

Page 80, lines 8-10: If the problem statement is inferring that 'natural patterns of salinity' were seasonally variable salinity conditions, then data stating specifically where, when and at what level this variability existed historically, since other data (including data used for developing salinity criteria in the NDWA 1981 Contract) indicates that under natural conditions the Delta was *predominantly* a freshwater system above Carquinez. If there is scientifically verifiable information defining what kind (levels) of variable salinity system native fish prefer and can recover, then this science should be provided, otherwise it should be deleted.

Page 82, line 31: This performance measure needs definition. Does the DSC Plan intend to assess progress towards an objective of fresher water in the Delta or 'seasonally and inter-

annually variable salinity' mentioned on page 79? These are two very different objectives, yet is unclear what the DSC Plan's objective is on this measure. As mentioned above, based on historical data of a freshwater estuary above Carquinez, the NDWA would request the measure identify a specific target for freshwater using the NDWA 1981 Contract criteria as the baseline for the North Delta.

Recommended Additions to Chapter 6

Building Block –The criteria in the 1981 Contract's freshwater criteria meets the beneficial uses of the agriculture, municipal, and industrial of the North Delta and contribute toward the beneficial use by aquatic species that historically evolved in the freshwater system north of Carquinez.

- The DSC Plan should recognize things in the Delta that already contribute toward achieving the statutory requirements of the DSC Plan, such as the 1981 NDWA Contract which assures a reliable water supply for the North Delta of a certain water quality.

Size Matters – Large diversion intakes in the Delta servicing urban areas are about 300 cfs and the average in-Delta diversion intake is probably around 10 cfs, therefore it is very possible that five in-Delta diversion intakes of 3,000 cfs ***each*** could result in altering the water quality in the Delta. DSC Plan should require:

- Prior to approval of new in-Delta diversions in the North Delta for water supply reliability, DWR should be required to provide the NDWA with all data and assumptions utilized in modeling the water quality resulting from the operation of such facilities individually and all at one time. This is important since DWR is using a new model.
- The modeling information should also provide NDWA the same data used for how water elevations, flows, and flood control impacts will be affected.

Comments on Chapter 7
"Reduce Risk to People, Property, and State Interests in the Delta"

Page 95, lines 1-19, [RR R6]: Recommendation for creating a new flood management agency is premature, not well defined, and not currently supported by local levee maintaining agencies. The NDWA has concerns about the effect the creation of a Delta-wide benefit assessment district for flood management would have on the ability of local Reclamation Districts to secure funding to keep their levees up with changing standards and future sea level rise. Levee failures in the Delta could have a detrimental impact on the water quality in the North Delta. Currently, this recommendation lacks sufficient details on how it would be formed, who it would assess, who can serve on the district, how local levee maintainers would access funding for their levees, and many other unknowns at this time. Therefore, the NDWA requests the Council withhold making this recommendation until the NDWA and Delta Reclamation Districts can better understand the details of creating a new bureaucracy in light of the more than 200 entities already in existence.

Recommended Additions to Chapter 7

Water Quality – Levees are an important component in maintaining water quality in the Delta, so their maintenance and improvement should be continued in a cost-effective manner. In addition, these levees protect the coequal goals of water supply reliability and ecosystems, so also meet those general goals.

- Recommend the Legislature extend the 2013 sunset of the Delta Levees Program and appropriate funding to support the program each year.

Comments on Chapter 8
"Protect and Enhance the Unique Cultural, Recreational, Natural Resources, and Agricultural Values of the California Delta as an Evolving Place"

Page 99, lines 2-6: Since the Delta's economic viability and vitality are critical components of protecting and enhancing it as an evolving place, this title should be expanded to include economic vitality.

Page 102, lines 5-6: This recommendation seems premature and fails to substantiate how it contributes to achieving the three co-equal goals. The value to Delta as Place of having the federal government designate the Delta and Suisun Marsh as a National Heritage may not be the most valuable action and could have long-term impacts on private lands. Its implications for the Delta are not well understood by residents, so it is premature to support until it is better understood and embraced by Delta landowners and residents. There does not seem to be any need to rush to get the designation, so is an option that should be continued to be promoted and investigated before being designated. Otherwise, it could become just another layer of government bureaucracy without Delta benefit or support.

Page 102, lines 27-28: The problem statement should be expanded to recognize the detrimental affect new facilities for conveyance of water and habitat restoration projects necessary to comply with ESA take permits and mitigation for new water supply infrastructure will have on the Delta's unique characteristics and economy supported by agriculture, recreation, and supporting businesses. These impacts also need associated recommendations to protect and enhance these values in the form of assurances, protections, and incentives.

Page 102, line 39, [DP R1]: This is redundant to line 36. If there are in fact two different objectives intended, then they need to be better defined.

Page 103, line 5-7, [DP R3]: This recommendation should be modified to make payments in lieu of local taxes/assessments required as an element of all DSC Plan water supply reliability and habitat restoration recommendations/actions/measures in order to be considered consistent covered actions. If a source of funding for these payments is not identified and securitized, then the covered action will be considered to be inconsistent with the DSC Plan.

Page 103, line 7: A new recommendation should be added: Legislature should appropriate funding to the DSC for the establishment of a Delta landowner compensation fund to pay for claims by landowners for damage caused by water supply reliability and habitat restoration

measures/actions/recommendations implemented pursuant to the DSC Plan. This has been significant problem with the implementation of the San Joaquin River Restoration Agreement.

Page 103, line 28, [DP R5]: This recommendation is premature, not well defined, and not currently supported by local levee maintaining agencies. The NDWA has concerns about the effect the creation of a Delta-wide benefit assessment district for flood management would have on the ability of local Reclamation Districts to secure funding to keep their levees intact. Levee failures in the Delta could have a detrimental impact on the water quality in the North Delta. Currently, this recommendation lacks sufficient details on how it would be formed, who it would assess, who can serve on the district, how local levee maintainers would access funding for their levees, and many other unknowns at this time. Therefore, the NDWA requests the Council withhold making this recommendation until the NDWA and Delta Reclamation Districts can better understand the details of creating a new bureaucracy in light of the more than 200 entities already in existence.

Page 103, line 37: This section should be expanded to specify that impacts to the values mentioned in lines 33-35 also need to be considered before implementing water supply and habitat restoration measures/action/recommendations implemented pursuant to the DSC Plan. These impacts and their effect on these Delta values should be evaluated against whether they protect and enhance the values of the Delta consistent with Water Code 85020(b).

Page 104, lines 17-18: What is the objective trying to be achieved? Is the DSC Plan measuring whether these increase? If so, it should state the specific objective.

Page 104, lines 19-20: This needs to be stated in a measurable objective, otherwise there is no performance to measure and fails to comply with PRC 85211 and PRC 85308(b)(d). If there is a maximum percentage of overall acreage that should be allowed to be impacted by water supply and ecosystem restorations objectives, then it should be clearly defined so there is something for performance to be measured against.

Recommended Additions to Chapter 8

Positive Narrative – Currently Chapter 8 is woefully inadequate and predominantly paints a picture of a patient (The Delta as Place) as being on life support without even identifying remedies to improve the patient's health, but instead seems to lead to choosing to pull the proverbial plug. Nothing could be further from the truth. The Delta ecosystem may be sick, but the Delta economy and its levees are in far better condition than indicated. In 1994 (DPC report), the Delta economy represented 1.5 percent of personal income in California and 1.8 percent of employment. Manufacturing is the largest sector, producing $4.5 billion worth of goods in the Delta, followed by trade (wholesale and retail) generating $3 billion in output, and services creating $2.9 billion in output. The Delta of today has managed to retain many of the valued attributes of when it was originally settled, while at the same time modernizing enough to serve the needs of visitors who come here to get away from the hectic pace of modern civilization. There is a remoteness and serenity to the Delta that is not easy to find elsewhere. It is one of the rare places you can still ride a ferryboat or travel over a working drawbridge. There are over 100 marinas (more than 12,000 berths), waterside resorts, and RV parks for visitors and locals to enjoy. There are numerous agricultural and cultural festivals throughout the Delta that have tens of thousands of visitors every

year such as the Stockton Asparagus Festival, the Isleton Cajun Festival, the Taste of Delta, and many others. The Delta is home to over 230 species of birds, 45 mammal species, 52 fish species, 25 reptiles and amphibians, and 150 species of flowing plants. Yet, none of these values are mentioned in Chapter 8. Shame, shame, shame! How can the Council protect and enhance values it does not even recognize in its DSC Plan?

- Chapter 8 should be expanded to describe the "cultural, recreational, natural resource, and agricultural values of the Delta" as it exists today and how it should be in the future. Then specific measurable goals/objectives for each category should be identified to either protect or enhance.

Building Blocks - In addition to the values of the Delta, there are numerous examples of existing cooperative programs, policies, and actions that have been successful in protecting the unique values that make Delta as a Place that should be identified as things to support, promote, fund, duplicate, and expand upon. For instance, the Delta Levees Program has been successful in improving levees in the Delta since 1988, resulting in a significant reduction in levee failures in flood events, including 1997 and 2006. Also, the Delta Protection Act of 1992 has been successful in balancing natural resource conservation while sustaining agriculture and increasing population and recreational demands for almost twenty years. The NDWA 1981 Contract has protected the water supply reliability and quality of the North Delta for thirty years. And local agencies have invested millions in dollars in developing plans for the Delta including the 'Suisun March Habitat Management, Preservation, and Restoration Plan EIS/EIR,' the 'Yolo Bypass Wildlife Area Land Management Plan,' County HCPs, and other plans.

- The DSC Plan should identify the existing plans, programs, and policies that currently protect each of the cultural, recreational, natural resources, and agricultural values of the Delta and then identify opportunities for building upon them, funding them, duplicating them, etc.

Recreation – Until the DPC Economic report is completed, the DSC Plan can reference statistics from a Dept. of Boating and Waterways study (commissioned by DPC) of recreation uses in the Delta which is presented County by County and by Type of Recreation Facility. According to that 1997 report, every dollar spent on lodging in the Delta generates a total of $1.87 of economic output (sales) in the region, $0.75 in income, and $1.14 in value-added. Every million dollars spent on lodging in the Delta generates 31 local jobs. Because of the multiplier effects, the total boating expenditures of $247 million annually generate $445 million in total output, $183 million in income, $279 million in value added, and 8,058 jobs within the Delta region. For fishing, expenditures of $186 million annually, $336 million in total output, $138 million in income, $209 million in value-added, and 6,152 jobs. These values represent 1.7 percent of total Delta income and 3.2 percent of employment in the Delta for boating recreation. Fishing recreation impacts represent 1.3 percent of total Delta income and 2.5 percent of employment. Clearly, recreational boating and fishing are an important part of the Delta economy. The fact that 23 percent of boaters and anglers in California recreate in the Delta every year, further demonstrates that the Delta provides an important outlet for water recreation in California.

- The DSC Plan should include specific quantified and measurable actions to help the Delta Conservancy comply with PRC 32322(b)(3),(4) and (7).
- On a recent recreation tour of the Delta, it was announced that Brannan Island State Park is slated for closure due to the State's budget deficit. The DSC Plan could consider recommending the Delta Conservancy investigate the opportunity for an "adopt-a-park" program for the local community to take over the maintenance or the possible acquisition.

- Recommend where the Delta Conservancy could look at making marina investments.
- Myriad of other ideas Council could investigate such as recommending Delta Conservancy find funding to continue payments under the Williamson Act if State discontinues funding.

Cultural Events – The Delta is well-known for its many cultural, musical, food, recreational, and agricultural festivals and events such as the Stockton Asparagus Festival, the Isleton Cajun Festival, and the Taste of the Delta.

- DSC Plan could recommend the Delta Conservancy investigate opportunities to expand existing events to promote the visibility, appreciation of, and economy of the Delta.
- Specify intent to support, promote, fund, etc, Delta museums, recreational trails, community parks, farm stands, community centers, and water access facilities.
- The DSC Plan should include specific quantified and measurable actions to help the Delta Conservancy comply with PRC 32322(b)(3),(4) (7), and (9).

Agriculture - The agriculture economy produced $911 million worth of agricultural goods in 1994, resulting in the Delta's agricultural industry purchasing $77 million worth of inputs from local agricultural producers and $21 million of inputs from the local manufacturing sector, while $584 million went to labor, farm income, and land leases. The Delta agricultural sector in 1994 exported $686 million (or 75%) of its output. To assist Delta Conservancy in complying with PRC 32322(b)(2), the DSC Plan could adopt policies to:

- Support and encourage agriculture in the Delta as a key element in providing the food supply needed to sustain the increasing population of the State, the Nation, and the world.
- Conversion of land to non-agriculturally-oriented uses should occur first where productivity and agricultural values are lowest.
- Support the implementation of appropriate buffers, management plans and/or good neighbor policies (e.g. safe harbor agreements) that among other things, limit liability for incidental take associated with adjacent agricultural and recreational activities within lands converted to wildlife habitat.
- Quantify (define) and support through policies, programs and project approval, the critical mass of farms, agriculturally-related businesses and supporting infrastructure to ensure the economic vitality of agriculture within the Delta.
- The State has discontinued funding of the Williamson Act payments due to its budget deficit, so maybe to protect agriculture, the DPC should recommend the Delta Conservancy identify alternative funding to keep this important program to maintain working ag lands.
- Adopt policy that conversion of agricultural lands for water impoundment, including reservoirs, water conveyance, or wetland and tidal habitat may not result in the seepage of water onto or under the adjacent lands and that these conversions shall mitigate the risks and adverse effects associated with seepage, levee stability, subsidence, and levee erosion.
- Impacts to agricultural lands associated with construction of transmission lines and utilities needed for water supply reliability (conveyance) should be minimized and follow edges of fields. Pipelines crossing agricultural areas shall be buried deep enough to avoid conflicts with normal agricultural activities.

Comments on Chapter 9
"Finance Plan Framework to Support Coequal Goals"

Page 108, lines 4-7: This principle should be expanded to better define the types of securitized funding required. Also, should make it clear that ALL Delta improvements associated with water supply reliability and ecosystem enhancements associated with water supply reliability and operation of water export facilities be prohibited until the specifically defined type of securitized funding in perpetuity is in place.

Page 108, line 31: A new bullet should be added: Funding for water supply and ecosystem restoration projects should have securitized funding in place before proceeding.

Page 108, line 31: Another new bullet should also be added: Local Delta governments and landowners should not have to bear the burden of paying for modeling, monitoring, data collecting, facility improvements that are necessary to achieve objectives that benefit the state as a whole. A fund should be established to pay for local costs of compliance for measures that benefit areas outside the Delta.

Page 112, lines 10-13, [FP R3]: See previous comments made on a regional flood management agency.

Page 112, lines 27-30, [FP R7]: Before the beneficiary pays principle is implemented, it needs to be defined and developed in an open, transparent, public process and should take into consideration the ability to also credit those Delta entities/landowners that bear burden for negative impacts to its economy due to the construction and operation of water supply and ecosystem projects intended to provide statewide benefit. Before the stressors pays principle is implemented, it needs to be defined and developed in an open, transparent, public process and should also provide the ability to also offer credits to Delta entities/landowners that have been previously harmed by human activities in the Delta to benefit other areas of the state that have caused negative impacts to their economic livelihood.

Page 112, lines 31-33, [FP R7]: What is the source of funding for these 'advances?' Is it state general fund, bond funds, or some other source? Sources needs to be specified.

Page 113, lines 1-6, [FP R10]: A public goods charge for water is much more complicated than energy. Energy is a man-made resource and distributed by public agencies and very few people make they own energy (maybe some do with solar panels), so must buy from a regulated company. Water on the other hand is a natural resource captured and harnessed by many individuals, some with riparian water rights. Since many Delta ecosystem costs are associated with "ecosystem improvements to reduce damage by operations of the existing export pumps in the Delta" (page 110, lines 8-9), then it is unclear how people not using water exported by these facilities should have to fund these project specific ecosystem costs. Since this is an apples and oranges comparison of water v. energy public goods charge, we would recommend that the Legislature should NOT be encouraged to create such a charge ***until*** the Council has taken the time to hold open, transparent public meetings to investigate how this charge would be created and applied fairly.

Page 113, line 13, [FP R11]: Expand the last sentence to say: 'through an open, transparent, and public process.'

Page 114, lines 16-17: What exactly does this last sentence mean? Does it mean the Council is going to be in the business of being a statewide watermaster and make decisions what areas get how much water? Whatever the objective of the last sentence is, it should be more clearly stated or deleted.

Page 114, lines 25-26: The Council's research into potential for assigning such a fee should be done in an open, transparent, and public process.

Page 114, lines 31-33: This section does not make sense at all, so how and where costs savings are envisioned should be explained. A better recommendation for 'cost efficiencies' would be for the Council to identify government agency overlap in terms of costs for studies, science, research, projects, etc to avoid wasting money on duplication of effort which is much more clear on how and where cost savings could occur. Again, this should be part of the initial near-term activities the Council should pursue as it will help streamline effort and money.

Page 115, lines 3-11: Carbon offsets have yet to find a stable market in California, therefore this recommendation should be approached with caution, starting with only pilot projects, limited to publicly owned lands, and its detrimental impacts to performance measures on page 104, lines 14-20, particularly the 'Gross revenue from agricultural in the Delta' should be evaluated prior to large-scale implementation.

Recommended Additions to Chapter 9

Statewide Costs - Local Delta governments and landowners should not have to bear the burden of paying for modeling, monitoring, data collecting, facility improvements that are necessary to achieve objectives that benefit the state as a whole and/or are required as ESA conditions for operating the SWP or CVP.

- A fund should be established to pay for local costs of compliance for measures that benefit areas outside the Delta and/or are "ecosystem improvements to reduce damage by operations of the existing export pumps in the Delta" (page 110, lines 8-9).

Cost Savings – There is likely a great deal of overlap and duplication occurring in the Delta resulting in waste of precious fiscal resources.

- Council should identify government agency overlap in terms of costs for studies, science, research, projects, etc to avoid wasting money on duplication of effort, so know how and where cost savings could occur. This should be part of the initial near-term activities the Council should pursue as it will help identify saved money opportunities if can streamline effort and money.

Local Taxes – Need a reliable mechanism and funding to replace lost local government revenues (taxes, assessments) resulting from conversion of lands to habitat, water supply infrastructure and other actions in support of the coequal goals, but not limited to the BDCP.

- Require consistency determination for these covered actions to include criteria for a securitized funding source to be in place to pay these taxes for all converted parcels in perpetuity, prior to the projects approval, OR;

- Establish a fund to be managed by DSC, DPC, or Delta Conservancy to pay these taxes for all converted parcels in perpetuity.

Long-Term Management – Need a reliable mechanism and funding to pay for the long-term management of water supply reliability facilities and habitat restoration lands.

- Require consistency determination for these covered action projects to include criteria for a securitized funding source to pay for the ongoing data collection, maintenance, operation, monitoring, adaptive management, and compliance with flood control requirements, OR;
- Establish a fund to be managed by DSC, DPC, or Delta Conservancy to pay for the ongoing data collection, maintenance, operation, monitoring, adaptive management, and compliance with flood control requirements.

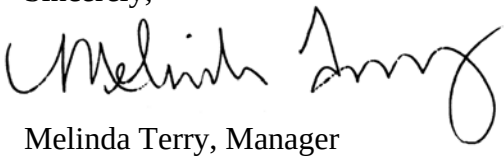
Third-Party Impacts – Water supply reliability and habitat projects (water impoundment including reservoirs and forebays, water conveyance, or wetland and tidal habitat) are likely to result in the seepage of water onto or under the adjacent lands and result in adverse effects associated with seepage, levee stability, subsidence, water elevations, and levee erosion. This could include financial responsibility for moving or consolidating in-Delta diversion intakes and protective devices necessary to meet the objectives of ESA/CESA (e.g., fish screens). These third-party impacts have already occurred with operations and projects associated with the San Joaquin River Restoration Agreement and therefore should be anticipated for the DSC Plan.

- Establish a process for Delta landowners to submit a claim for compensation for damage caused by water supply reliability and habitat projects associated with achieving the coequal goals or operation of the SWP and CVP, prior to any of these projects/actions being implemented.
- Establish a fund to be managed by the DSC, DPC, or Delta Conservancy to pay for the compensation claims submitted for third party impacts associated with actions, projects, policies, and operations associated with achieving coequal goals or operation of the SWP and CVP.

CONCLUSION

Like the Titanic, the DSC Plan is currently on a collision course with disaster because it cannot see where it is going and is moving too fast to right itself before slamming into the iceberg. Unfortunately, as currently drafted, the DSC Plan is not legally enforceable, comprehensive, CEQA compliant, or a management plan that can achieve the co-equal goals. We hope the Council will re-evaluate its current course and consider developing definitions of what the three co-equal goals looks like in terms of descriptive, quantified and measurable objectives (PRC 85211 and PRC 85308(b)) and specify near-term coordination and synthesis of various existing Delta Programs and agency authorities to steer them all in the same direction as a good starting point.

Sincerely,



Melinda Terry, Manager