



September 29, 2008

Honorable Phil Isenberg
Chairman, Delta Vision Blue Ribbon Task Force
650 Capitol Mall
Sacramento, CA 95814

Re: Comments on the Delta Vision Draft Strategic Plan

Dear Chairman Isenberg:

On behalf of the Association of California Water Agencies (ACWA), I am submitting comments on the fourth staff draft of the Delta Vision Task Force (DVTF) Strategic Plan. These comments are the product of a special committee on the Delta Vision process created by the ACWA board in July. The committee represents statewide interests, including agricultural and urban water users and representatives of areas upstream and downstream of the Delta.

We sincerely appreciate the responsiveness of the DVTF staff in the fourth draft of the Strategic Plan to many of the numerous comments made in response to the third staff draft. In a letter dated September 5, 2008, ACWA made it clear that we strongly supported the vision of necessary physical changes embodied in the third staff draft, while we strongly opposed the unnecessarily adversarial implementation strategy of the draft. While the fourth draft is an improvement and responds to some of ACWA's concerns expressed in the September 5 letter, much more work is needed for a final Delta Vision strategic plan to be broadly supported.

The fourth draft continues to move toward a powerful vision for change that ACWA generally supports. In 2005, ACWA asked the Governor for a process that would stretch the boundaries of the past and suggest bold new initiatives that break California out of decades of stalemate on key policy challenges. The fourth draft moves substantially in a direction to do that. It proposes an unprecedented commitment to water use efficiency and local resource development; a comprehensive, adaptive approach to environmental management and restoration; and new water infrastructure, including dual conveyance and storage above and below the Delta to be operated for the co-equal goals. In concept, ACWA strongly supports all of these initiatives. The flow-related implementation strategies set forth in volume 2 of the draft, however, continue to be inconsistent with the coequal objectives of the strategic plan, are unnecessarily adversarial, and are unsupported by facts and science (not to mention legal principles) as to the ecosystem benefits that would result, the capability of the water system to provide these flows or the water supply impacts they would cause.

Areas of Improvement

There are numerous areas where we found significant improvements in the draft. In particular, the fourth draft:

- Has a much improved tone throughout volume 1, but leaves flawed implementation strategies largely intact in volume 2;
- Recognizes the value of other ongoing processes such as the Bay-Delta Conservation Plan (pages 7,9);
- States in volume 1 that it relies on the existing water rights system to address potential changes in water rights (page 7), but continues to propose in volume 2 implementation strategies that are inconsistent with the water rights system;
- Acknowledges the need to assess water supply impacts as part of the balancing process in determining environmental flow requirements (page 20);
- Recognizes that one size does not fit all in implementing conservation programs (page 21);
- States appreciation for the value of collaborative settlement agreements among stakeholders (page 24); and
- Eliminates the proposed 12,000 to 18,000 cfs fall Delta outflow standard and other requirements that have not been vetted through science-based, public regulatory processes, but still proposes numerous actions in volume 2 that we believe are fundamentally inconsistent with the balancing requirements of California water rights law.

The improvements in the draft that we have noted are appreciated and will help create an environment in which we can move forward and finance a comprehensive strategy to implement the plan's "three-legged stool" of environmental improvement, water supply reliability, and the Delta as a place. As also noted, however, much more improvement is needed.

Areas Needing Further Improvement

ACWA believes that further improvement is essential in the following areas:

- **Volume 2 flow proposals:** The fourth draft's volume 2 flow proposals continue to be inconsistent with the coequal objectives of the strategic plan, are unnecessarily adversarial, and are unsupported by facts and science (not to mention legal principles) as to the ecosystem benefits that would result, the capability of the water system to provide these flows or the water supply impacts they would cause, including proposals: (a) that the Yolo Bypass be inundated for at least 60 consecutive days every other year; (b) a statewide water-conservation target of 40% by 2050; (c) a Delta-watershed diversion fee to fund the proposed California Delta Ecosystem and Water Council; and (d) that spring Delta outflows should be increased between 10% in wetter years to 50% in drier years. The

strategies document continues to propose that no compensation would be provided for involuntary reallocations of water.

- **Mandatory Conservation (page 7):** The draft states that “Mandatory conservation . . . seems inevitable and desirable.” ACWA continues to believe that conservation will occur more effectively through the use of positive incentives, not negative punishments to achieve state-driven mandates. Conservation implementation strategies must account for the widely varying circumstances in California. This challenge is recognized in the fourth draft at page 21 and underscores the value of incentive based programs that allow local agencies to tailor programs to fit local circumstances.
- **“Legal Limit” on Water Export (page 7):** The draft is inconsistent on the critical need for operational flexibility. At page 7, the draft advocates “a dual conveyance system, with a *clear legal limit to total water export placed in law.*” Yet, at page 14, the draft argues that, in response to climate change, there will be an increasing “need for large amounts of water to be moved and stored throughout the state when it is relatively abundant.” Later, the first justification for a dual system is that “[i]t expands overall capacity so larger amounts of water can be moved across the Delta *when it is least harmful to the ecosystem and the Delta itself*” (page 22, emphasis in original). This type of operational flexibility is at the very center of the DVTF Strategic Plan. We are unsure what is intended in the reference to a “clear legal limit” on water exports, but it is imperative that operational flexibility remain the hallmark of the plan’s water supply approach.
- **Water Transfers:** The draft continues to underemphasize the potential role of voluntary water transfers from willing sellers to willing buyers. This management tool provides substantial economic incentives for more efficient utilization of the existing system and for more efficient water use and warrants greater emphasis in the task force’s recommendations. The various drafts of the Strategic Plan contain a strong bias against moving water “great distances”, which may explain the antipathy toward water transfers. However, with an environmentally sound transportation system for conveying water around the state, market forces could considerably assist in the accomplishment of the coequal objectives.
- **Phased Implementation:** ACWA urges the DVTF to emphasize the importance of phased implementation of the vision in its final draft. In the third draft of the plan, DVTF staff included quantified flow requirements for restoring fisheries that were widely criticized in the water community but remain largely intact in the fourth draft. In part, these criticisms reflect the fact that, whatever level of flows ultimately may be required based on sound science, *we don’t operate a system today to provide these flows without major economic dislocations.* Similarly, flow requirements in the Delta today are exceptionally costly because the current physical system comingles water for the environment and economy resulting in high levels of conflict between the coequal goals. As we invest in the physical vision of the DVTF, the level of conflict between the goals will decline – indeed, this is a central feature of the vision itself. Consequently, phased implementation – that is, quantified goals over time that respect the capabilities of the physical system at that time – is essential if we are to avoid trading off the coequal goals against one another.

- **Governance:** The fourth draft responds to comments to a degree with respect to governance, but ACWA remains concerned about certain aspects of the governance proposal. We note that the Commission is now a “Council” (page 25) and that its powers are more carefully defined. The fourth draft does a better job clarifying the relationship between the Council and existing governmental institutions. In particular, the fourth draft clarifies that all existing state agencies would retain their existing authorities. One area of ambiguity is that, while the draft states that the Department of Water Resources (DWR) and the United States Bureau of Reclamation (USBR) would continue to construct and own state and federal water facilities, the draft is unclear regarding who would control project operations. We believe that it is essential that DWR and USBR continue to maintain operational control of these vital facilities, subject to environmental requirements as defined in state and federal law and guided by the vision. The fourth draft continues to advocate the creation of a Delta Conservancy and enhanced powers for the Delta Protection Commission, which ACWA supports in concept. However, the draft deletes any mention of moving the State Water Project from DWR and creating a utility-based entity for project operations. ACWA urges that this concept be retained in the final draft for further public discussion. Finally, while the draft clarifies that existing institutions would retain existing authorities, this apparently does not extend to control over their budgets. As we read the draft, the California Ecosystem and Water Council would control all the money, which is to say that this multimember “council” would have substantial control over all existing state institutions. We continue to believe that this is the wrong direction to go and strongly prefer that the recommendations of the Little Hoover Commission (acknowledged on page 11), which have only just been implemented, be given time to work.

We appreciate the opportunity to comment on the staff drafts of the strategic plan. If you have any questions or would like further implementation, please do not hesitate to contact me at (916) 441-4545.

Sincerely,



Timothy Quinn
Executive Director