

April 11, 2008

**Correspondence Received Since March 20-21, 2008 Meeting of the
 Delta Vision Blue Ribbon Task Force
 (Tenth Batch)**

Letter No.	From	Date	Subject
Comments on Delta Vision (Final)			
DV-40	John Herrick South Delta Water Agency	3-14-08	Delta Vision Final Report
General Comments			
GC-21	Alex Hildebrand, Engineer South Delta Water Agency	3-12-08	Restoration of Delta to Historical Condition and Maintaining Basic Pattern of Channels and Lands
GC-22	John Herrick South Delta Water Agency	3-17-08	Comments Regarding Robie Balancing
GC-23	Will Travis, Executive Director San Francisco Bay Conservation and Development Commission	3-24-08	Comments to Delta Vision Governance and Finance Work Group and BCDC's Primary Roles in Delta Vision
GC-24	Matt Richardson, DPT Saint Francis Memorial Hospital	3-28-08	Comments Regarding Water and Fish, No Dams and No Peripheral Canal
GC-25	David Okita, General Manager Solano County Water Agency	3-27-08	Forwarding Information on Alternate Intake Project for the North Bay Aqueduct

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March 14, 2008

Mr. Phil Isenberg, Chair
Delta Vision Blue Ribbon Task Force
650 Capitol Mall, 5th Floor
Sacramento, CA 95814

Dear Mr. Isenberg:

The South Delta Water Agency submits the following comments to the Blue Ribbon Task Force's *Delta Vision* document dated January 29, 2008 ("Vision") and subsequently presented to the Governor. The document contains a significant amount of useful information and analysis of the issues facing the Delta. However, it suffers from a number of mistaken premises and a failure to include some necessary investigation and analysis.

1. The Vision document fails to recognize the underlying legal framework on which current and future water and Delta decisions must be made. The problem is best evidenced by two main points of the document; the conclusion that the ecosystem and a reliable water supply for California are "co-equal goals," and the references to "reasonable use" and the "public trust doctrine."

With regard to the co-equal goals, the Vision seeks to create some sort of parity of needs where none exists. Initially, it must be noted that the Vision makes no justification for selecting these two goals, rather than other goals. For example, supply needs for in-Delta agricultural use, or in-Delta urban use, or navigation could also be selected as paramount or co-equal goals. However, current law already gives us specified priorities. California Water Code provisions such as the Delta Protection Act and the area of origin statutes, as well as the priority of water rights law under statute and case law clearly specify what water users have priority over the use of the water upstream and from the Delta. The Vision tries to artificially make export water reliability of paramount importance while ignoring exports' junior status under the law.

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The referenced law provides that no water can be exported from the Delta that is necessary to meet in-Delta consumptive use needs and salinity intrusion needs (Water Code Section 12204). In protecting this amount, the State must therefore determine what the needs of the ecosystem are, as well as the needs of those with priority. Only thereafter can one set a "goal" of a certain amount of export water to be made reliable (if possible). By failing to go through this analysis, the Vision guarantees that the current shortage will be allocated away from the junior right holders wholly onto the superior right holders or partially on them through some sort of "sharing of the burden." Even without this analysis, the Vision fails to tell us *how much* water needs to be exported from the Delta in order to protect this co-equal goal. Apparently, the Vision seeks to offset or balance ecosystem needs against export needs and then "cut the baby in half" pursuant to some unknown criteria. Such a process is not viable as we have seen in the CalFed process.

With regard to the reasonable use and public trust doctrines, the Vision confuses two legal principles. Other commentators have fully explained the Vision's mistake of including the "public trust" doctrine into the California Constitution and the differences in the principles. In adding to those comments, it should be noted that immediately below the Constitution's reference to "reasonable use" it provides specific protection to riparian water rights, a property right wholly ignored by the Vision.

It appears that the Vision is laying the ground work for a later analysis which seeks to re-allocated a limited supply of water based on some unspecified criteria of "what is best" for the State, rather than according to law. Neither of these doctrines can be used for such a purpose. Such an approach would be substituting some sort of personal preference for legislation. The existing legal priorities have already set the guidelines for what is best for the State and created property rights which should not be cavalierly discounted.

2. The Vision failed to examine the consequences of either an isolated or dual facility on in-Delta water quality. Prior to the Vision process the Task Force members and the Governor apparently decided that a peripheral canal of some sort was necessary for water supply, and that the Delta could be protected better than it is now while operating an isolated conveyance canal. These assumptions are both wrong, but the Task force did not discover this because they ignored the reasons why a canal is not necessary for water supply and the reasons why the Delta would be destroyed if Sacramento water were exported through a canal.

The report seems to build on the above preconception that exporting water through an isolated conveyance facility is necessary for export reliability, *and* can also be compatible with protection of the Delta. This apparent pro-canal bias led to failure to address either the impacts of a canal or alternatives that would meet the Vision's goals without a canal.

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On page 13 it is acknowledged that "there is not sufficient information" to ensure that a canal is a viable solution. Then on page 14 the report refers to "an assessment of a dual conveyance system as the preferred direction..." The report does not call for analysis of the effect that any isolated conveyance would have on salinity in Delta channels in the South and Central Delta particularly during months and years when river flow is low. Contrary to the statements made by DWR, removing Sacramento water from the system before it travels through the Delta can only result in poorer water quality in the Central and South Delta. [DWR made reference to modeling which indicated that on average, water quality was unaffected by an isolated facility. Besides failing to show results for areas in the South Delta, the modeling lumped together all year types. This resulted in the massive amounts of wet year flows masking the facilities effects in above normal and drier years.]

For some reason, the technical advisors to the Task Force failed to do any analysis of the consequences of an isolated facility. If there is less fresh water entering the North Delta, there will be less mixing/dilution in the Central and South Delta. The consequence of this is an increase in the concentration of salts (and of other constituents) in those areas to the detriment of local users, the environment and export supplies. The Task Force should have noted that water quality standards in the southern Delta are often at risk, and were violated most of last summer. An isolated facility would only worsen this serious problem.

Further, the Vision does not make it clear that a canal would now have to go through the Delta, not around it, due to development on the east side. It would sever waterways, roads, farm fields, irrigation and drainage systems, and the circulation of channel waters. It would create blind sloughs where salinity, dissolved oxygen, and water hyacinth would not be controlled. It would be a barrier to major flood flows from south and east of the canal and cause increased flooding.

3. The Vision does not examine the consequences of its decision to give exports a priority at the expense of in-Delta agriculture. The issue of the salinity impacts from any isolated or dual facility will be discussed below. However, the consequences of such a facility, combined with the Vision's conclusion that levees are a partial the cause of the ecosystem's demise, will result in a worsening the Delta's problems.

Delta farmers are the primary parties who maintain the non-urban levees that preserve the basic pattern of channels and lands that now constitute the Delta. Any decrease in the ability of those farmers to profitably continue would result in the destruction of the means by which the maintenance is provided. The Vision makes no reference to any alternate system which could be used once Delta farmers no longer performed this function.

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Intentionally allowing certain islands to flood, or not recovering islands flooded unintentionally will result in seepage to the neighboring islands, some of which the Vision seeks to preserve. The seepage would adversely impact neighboring lands, further deteriorating the ability of farming to support necessary levee maintenance. As the "less valuable" islands are allowed to flood, we therefore not only create a new risk to the "more valuable islands, but we end up trading the substantial habitat associated with farming for large, open water, poor habitat areas like Frank's Tract. Still further, the Vision takes no notice that wetlands consume significantly more water by evaporation than is consumed by an acre of farmland. In other words, abandoning some islands (as well as creating new "marsh and overflow" areas) will only exacerbate the current water shortage.

4. The Vision fails to identify the underlying causes of the current Delta "crisis." Although the report discusses the various water users and their impacts to the overall supply, it does not clarify that the current shortage is due to the failure of the SWP to develop the supply necessary to support current levels of exports. As previously submitted, DWR's Bulletin 76 showed that the SWP was to have developed an additional supply of approximately 5 million acre feet of water from the north coast rivers by the year 2000. None of that 5 MAF was developed due to societal decisions in the 1980's to protect those rivers from any significant dams or other projects. This huge amount was not meant to simply provide for export needs, it was to be combined with the Sacramento system's supply for in-basin, habitat and Bay-Delta needs.

When that supply was removed from future planning and use, the SWP continued to increase export amounts, drawing an ever greater share of outflow from the system. That increasing share was at the expense of all the other beneficial uses, including of course the ecosystem. Rather than begin to identify and develop an alternative supply to protect the Delta and exports, DWR and the USBR simply continued to export water to supply the full amounts of their contracts with third parties.

Ignoring this underlying cause allows the Vision to describe the problem as something facing California as a whole, rather than the direct result of DWR's failure to plan during the last 20 plus years. It is entirely appropriate to recognize the water shortages of portions of the State and to seek State-wide measures which will address those shortages. It is not appropriate to take water away from priority users and destroy the Delta ecosystem in order to satisfy the needs of junior users. The Delta can be a source of some export supply, but it cannot be the guaranteed supply for areas of shortage.

5. Although the Vision discusses the need for more developed water, it does not make it clear that the underlying problem which pits exporters against Delta protection is the inadequacy of the developed water supply. It does not clearly show that no conveyance facility can increase the overall water supply; it only reallocates it. It does not mention the fact that

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California's human population is growing by about 6 million people every ten years. It does not assess the magnitude of the growing demand for water as compared to the potential water yield, (not storage capacity) of the report's storage proposals. It does not distinguish between non-consumptive water needs, such as most in-house uses, and consumptive use by crop lands, wetlands, evaporation from open water bodies, etc. A majority of the public's use of water is for consumptive use. It takes about $\frac{3}{4}$ of an acre foot of water consumed to grow food for each member of the public. The Vision, like the 2005 California Water Plan inadequately provides for the increasing need for consumptive water use. The primary potential source for that water is to capture and use beneficially the water that flows from the Central Valley through the Delta to the Bay in excess of needed outflow in wet years. There are feasible ways to do this.

The Vision only gives brief mention to the principles and proposals contained in the Delta parties submittals, especially Mr. Tom Zuckerman's *Water Plan for the 21st Century*. That plan contains an overview of how the State must determine how to handle excess flows, both for flood protection and for increasing the total available supply. These ideas were further explained in the CDWA/SDWA's *Comprehensive Water Management Plan* presentation which incorporates the Delta Corridors proposal which would reconnect the San Joaquin River with the Bay. That Plan would retain the Delta's pattern of channels and land, and would maintain both the fresh water inflow and the dispersal of that inflow needed to maintain a fresh water Delta.

6. The crash of certain fisheries and of the ecosystem as a whole is one of underlying reasons for the Delta Vision process. However, the Vision fails to even discuss the major cause of this problem. Recent court decisions have shown that DWR possess no "take permit" under the California Endangered Species Act, and that the USBR authorizations under the Federal Endangered Species Act were unsupportable and inadequate. Given that the export projects have been operating for years without the necessary approvals for their yearly killing of endangered species, the Vision should certainly recognize this and recommend that in the short term at least, the projects not export in violation of the law.

Much focus has been given to the "other" stressors of the impacted species. It may be appropriate to investigate and address those other stressors, but certainly not to equate them with the ongoing illegal killing of fish.

The Vision seeks to establish additional wetlands and overflow areas, purportedly to help improve the impacted species. However, the Vision references no sources which show how such additional habitat will actually result in improved populations. Other ongoing processes indicate that wetlands are a source of methyl mercury which is harmful to both aquatic species and humans. These flooded lands may also change temperature, turbidity and nutrient loading which can affect the food chain. The Vision makes no analysis (nor does it suggest one be done) of the pluses and minuses from expanding wetlands, or even how much might be needed.

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Current POD investigations indicate that the amount of zooplankton in the system remains fairly constant, but that the species and proportions thereof have changed. The POD speculation is that the "new" and different species at the lower end of the food chain may not support smelt. Therefore, any decision to create new habitat in order to promote smelt recovery must first include an analysis to see if there is any way to return to the "original" species and proportions. If we cannot increase the historical zooplankton in the food chain on which smelt survive, how can we conclude smelt will return to sustainable levels? Since these questions have yet to be asked and answered, there is no basis for deciding to create "new" habitat to preserve smelt. In addition, we have seen that proposals to create new habitat include seemingly haphazard designations which include lands above sea level which would only be inundated during extremely high flows.

Please call me if you have any questions or comments.

Very truly yours,



JOHN HERRICK

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March 12, 2008

Mr. John Kirlin, Executive Director
c/o Delta Vision Blue Ribbon Task Force
650 Capitol Mall, 5th Floor
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Dear Mr. Kirlin:

Introduction

A November 26, 2007 letter to you from Mike Healey and Jeff Mount discusses Delta Levees and Ecosystem Function. They describe the Bay-Delta Estuary Functions versus Levee Functions. They conclude that "Where feasible, levees should be removed." We believe that the transformation of the Delta from the historical condition they describe and extol was caused by more than levees, and that their proposal for partial restoration of the pristine Delta is now neither feasible nor sustainable. Some of their premises are questionable. The historical lands they describe were largely not tidal lands. Much of it was overflowed seasonally but not tidally. Furthermore, a substantial portion of the Delta lands, such as in the South Delta, are still above sea level and would not revert to marsh lands even if levees were removed. Their plan would also be in violation of the Vision Task Force determination that the Vision Plan must address both ecological and water supply needs.

Fresh Water Consumption Versus Delta Inflow

The population of California is already more than 15 times what it was prior to the construction of levees. The conflict between water exports versus Delta protection results primarily from the population having outgrown its developed water supply. The fresh water inflow to the Delta from the San Joaquin and Calaveras and Mokelumne Rivers has been largely eliminated except in substantially wet years. This is the result of upstream consumptive use and upstream exports largely to the Bay area. The maintenance of fresh water in Delta channels is therefore now largely dependent on dispersing Sacramento inflow throughout Delta channels. If

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levees are abandoned, this becomes much more difficult. Also, as levees are abandoned, the tidal flow of Bay water into the Delta increases. If an isolated conveyance facility is provided to keep exported Sacramento water out of the Delta, the salinity will unavoidably increase substantially and put Delta farmers out of business. Delta farmers are the primary maintainers of levees. If farmers are destroyed either by high salinity or by conversion of farms to wetlands, the levees will be abandoned, and the Delta will convert to an open, salt water bay. That is not the partial return to the fresh water Delta environment needed by most endangered species and proposed in the letter. The Healey/Mount plan is neither sustainable nor compatible with meeting social needs.

Levee Sustainability

The contention that levees can not be sustainable is a speculative conclusion. Levees can be improved, and other measures can be taken to reduce the risk of failure to be no greater than the risk of failure of the existing export facilities and proposed canal. Delta levees can be improved so that there is very little risk of any sustained disruption of water either for export or for protection of the Delta from failures caused by flood.

The potential for seismic failures does not depend on the depth of the center of an island. The resistance of levees to failure is affected only by having an adequate levee cross section and gentle levee side slope for whatever distance effectively resists failure.

These levee improvement measures can be adequate for the approximately three foot sea level rise predicted in the next 100 years. Higher rises will have consequences in the Bay and coastal areas that may be more serious than the Delta water rise.

Conclusion

We don't question that the Delta needs better protection than it now has, but we believe that is possible. We don't question that the ecology has been greatly altered by the consequences of population growth and exotic species. However, we don't believe we should expect to restore historic conditions to any substantial degree, just as we can not restore historic conditions in San Francisco Bay and its adjacent lands that are now urban. We believe it is essential to maintain the basic pattern of channels and lands that now constitute the Delta.

An Alternative

We refer you again to proposals by the In-Delta Group (Zuckerman) and the South and Central Delta Water Agencies' Comprehensive Water Management Plan (CWMP). That plan has the advantages and benefits listed below.

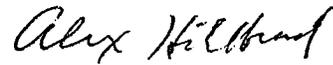
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- It isolates and protects San Joaquin fishery from export operations.
- It reduces the salinity of water exported from the Delta.
- It conveys San Joaquin salts to the Bay and prevents the capture and re-export of that salt by the CVP to lands south of the Delta.
- It abides by the Delta Protection Statutes, water rights law, and existing Delta salinity standards.
- It avoids the large rise in salinity in Delta channels that would unavoidably result from operation of an isolated canal of any design.
- It thereby maintains the fresh water supply for Antioch and other cities in the Delta.
- It would also avoid the salinity rise that would destroy Delta farmers if a canal were operated.
- It would avoid the high cost of a canal and the havoc that a canal would cause by severing waterways, roads, water systems, and lands, and by raising flood levels.
- It would assure that farmers could continue to be the primary maintainers of the non-urban levees that protect the Delta's basic pattern of channels and lands.
- It would strengthen levees and reduce the risk of prolonged disruption of water exports. The risk would then be commensurate with the risk of failure of export conveyance facilities.
- It would maximize the multi-year availability of water for export while protecting the Delta.
- In combination with storage in regions receiving export water, it would increase the developed water supply, because increased water delivery in wet years would capture water otherwise lost to the Bay. A canal would not increase the developed water supply.

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Please call me if you have any questions or comments.

Very truly yours,



ALEX HILDEBRAND, Engineer

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March 17, 2008

Delta Vision Blue Ribbon Task Force Members
650 Capitol Mall, 5th Floor
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Re: Delta Vision; Comments regarding Robie Balancing 3-14-08

Dear Task Force Members:

At a recent Task Force meeting in January, a representative of the State Water Resources Control Board staff provided information regarding the SWRCB's duties and obligations. This information related specifically to the recent Third Appellate District Court decision in the *State Water Resources Control Board Cases*, (*Anderson et. al. v. SWRCB* 136 Cal.App.4th 674, 770-771, 39 Cal.Rptr.3d 189, 266 (Cal.App. 3 Dist.,2006)) authored by Justice Robie (or Robie decision) . I am informed the comments included references to some sort of "balancing" authority of the SWRCB in relation to in-Delta needs and export needs.

This issue is of great concern to us as your "Delta Vision" document contains language to that effect. In addition, some Task Force members have made statements that suggest they or some other body needs to re-evaluate current water uses and adjust priorities and rights according to some to-be-determined greater public need. We believe such a re-evaluation is inappropriate and contrary to law, and so offer our view on the Robie decision for your consideration. The South Delta Water Agency and the Central Delta Water Agency both participated in the *State Water Resources Control Board Cases* from the very beginning, including the oral arguments before the Appellate Court.

As relevant here, a portion of the decision related to the Delta Protection Act contained at Water Code Sections 12200 et.seq. The statutes of the Act set forth certain obligations and goals of the export projects with regard to the use and needs of Delta waters. As Justice Robie stated:

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As we read these rather vague statutes, the Delta Protection Act recognizes the importance of providing salinity control and an adequate water supply in the Delta to serve dual goals: (1) maintaining and expanding agriculture, industry, urban, and recreational development in the Delta; and (2) providing fresh water for export to areas of water deficiency. *As between these two goals, however, the Delta Protection Act gives preference to the first. Thus, no one may divert water from the Delta that is necessary for salinity control or to provide an adequate water supply for users within the Delta.* What the Delta Protection Act does not specify is: (1) what is an adequate supply of water for users within the Delta; and (2) what level of salinity control must be provided. (See *United States v. State Water Resources Control Bd.*, supra, 182 Cal.App.3d at p. 139, 227 Cal.Rptr. 161.) *State Water Resources Control Board Cases* 136 Cal.App.4th 674, p. 768:

(Emphasis added)

This quote is important for two reasons. First, it confirms that no one can export water needed for salinity control or other in-Delta needs, making the use of fresh water for export secondary. Second, Justice Robie concludes that the statutes does not tell us the amount needed for salinity control or in-Delta needs, and so there needs to be a determination of those amounts before the secondary goal of exports can be met.

Naturally, the question of “who” determines these amounts presents itself. Justice Robie goes on to state:

Moreover, we must reiterate that the Delta Protection Act provides no clear standard for determining what is an adequate supply of water for users in the Delta. We agree with the trial court that since the Delta Protection Act seeks to serve the dual goals: (1) maintaining and expanding agriculture, industry, urban, and recreational development in the Delta; and (2) providing fresh water for export to areas of water deficiency, it is for the Board in the first instance to balance “in-Delta needs and export needs” and to determine whether in-Delta needs receive an adequate supply of water. So long as the Board had a reasonable factual basis for its action, we should not interfere with its discretion or substitute our discretion for that of the Board. (*Bank of America v. State Water Resources Control Bd.*, supra, 42 Cal.App.3d at p. 208, 116 Cal.Rptr. 770.) Furthermore, as the parties seeking to overturn the Board's decision, the San Joaquin County parties bore the burden of showing that there is no such basis. They have not met that burden. *State Water Resources Control Bd. Cases* 136 Cal.App.4th 674, 770-771, 39 Cal.Rptr.3d 189, 266 (Cal.App. 3 Dist.,2006)

At first blush it appears that Justice Robie’s use of the phrase “balance ‘in-Delta needs and export needs’” suggests that the priority of needs identified in his earlier quote above, might

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now be interpreted as co-equal needs. This is of course not the case. If it were, Justice Robie's analysis would be reinterpreting statutes to mean something other than they clearly state. Let us first address salinity needs, and then examine in-Delta supply needs.

With regard to salinity, the SWRCB is charged with developing water quality control plans for the Bay-Delta (see Water Code Sections 13240 et.seq.). Those plans identify beneficial uses and then determine water quality objectives necessary to protect those beneficial uses. In setting such objectives, the Board is directed to consider a number of factors. (See § 13241(a)-(f).) Case law and other statutes give the Board guidance in evaluating those factors, but generally the Board goes through a detailed examination, weighing certain factors as it sets the objectives.

In light of this, Justice Robie's statement about balancing in-Delta and export needs can be read to restate the SWRCB's current obligations to set water quality standards (including those addressing salinity control). The Board's considerations include a review of conditions that could be reasonably achieved through the control of all factors (per Section 13241©); and economic conditions (per Section 13241(d).) Although different parties can disagree on how these factors might be weighed, absent other limitations, they could be examined as how they affect exports, and thus one could argue export needs are in some way balanced against in-Delta needs.

However, the Delta Protection Act specifically states that no one can divert water from the Delta which is needed for salinity control (§ 12204). Therefore, regardless of the impacts to exports, the specifics of Water Code Section 12204 would seem to resolve the issue.

With regard to in-Delta supply, the analysis is similar. We start by noting that the Delta Protection Act requires there be an adequate "supply" (§ 12200?) for in-Delta needs. This "quantity" requirement is wholly missing from the Act's other goal of maintaining a fresh water pool from which to draw exports. Hence we see that the Act requires an adequate supply for in-Delta uses, but only a reservoir from which exports may come; exports are given no protection as to a supply or amount. Given this clear language of the Act, it cannot be said that any agency or court has the authority to "balance" the in-Delta supply with any level of exports. One is guaranteed a supply, the other only the ability to draw from the supply.

So what do Justice Robie's words mean? Again we must address the issues one at a time. With regard to salinity, the SWRCB must do an analysis as to what is needed to protect beneficial uses, which might be described as weighing or balancing of factors. Whether the Board sets a standard of .7 EC at any particular location, or .25 EC or some other level, it goes through an analysis of certain factors to determine what is needed, what can be done, and whether doing it can be reasonably achieved. As we have seen, there have been and will certainly continue to be disagreement over its determinations.

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With regard to export supply, the SWRCB applies numerous analyses; what export level can occur without adversely affecting fisheries; what level can occur without affecting municipal water quality; what level can occur without "drying" up the channels; what level can occur without affecting agricultural water quality needs; what level can occur without affecting other right holders. However, it clearly must first determine what the superior rights need before it can determine what if any is available for export. Justice Robie's words must therefore refer to the latter analysis.

When the SWRCB determines how much the projects can export, it should be making sure that the projects aren't diverting water to which others have a prior right. In determining how much is available, the SWRCB can try to categorize and list all users, or make some assumptions, or address only rights over a certain size (it has done all three in the past). In that analysis the Board may look at permits and licenses it has issued, it may look at "settlement" agreements whereby dam operators have agreed to provide certain levels to downstream users and it may estimate riparian or other rights not generally controlled by them (again, it has done all three in the past).

These analyses can certainly be complicated and contentious, and the resolution by the Board may result in, or include some sort of balancing of unknown or competing needs of equal priority. This is likely Justice Robie's meaning, and it would seem to provide an explanation that is in harmony (not conflict) with the clear language of statutes.

The issue of what quantity of water is available for in-Delta rights is not well understood by many people. Absent the export projects and upstream dams and reservoirs, the natural tides of the Delta reached certain points upstream on all the tributaries to the Delta. The specific points being determined by channel bottom elevations, inflow, and weather. At some points water was always present, at others it was sometimes present, at others, it was only present if the specific tributary had flow. Those channel portions which always had water roughly correspond to the channels currently listed as being in the "legal" Delta.

Because of this condition, any riparian, or pre1914 right holder diverting from those "legal Delta" channels always has a water supply. Historically, the periodic droughts caused decreased inflows which allowed increased sea water intrusion and resulting water quality problems for some uses. [Contrary to the PPIC Report, CCWD has shown that Delta water quality is generally worse during the time the export projects have been in operation. Sea water now is allowed to come farther in on a regular basis, yearly flushing are decreased, and in extreme droughts, the sea water intrudes just as far as it did in pre-project times.] Hence we see that certain in-Delta diverters always have a supply, but periodically may have a quality problem.

However, existing statutes and regulations have resolved the issue of maintaining water quality by requiring the export projects to protect all in-Delta uses. We have seen that the Delta

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Protection Act requires salinity intrusion protection; SWRCB permits require water quality objectives be met; and federal law requires some specific water quality be maintained. Those in-Delta diverters who always have a supply are therefore also guaranteed water quality protection. You have received comments suggesting that there are large numbers of in-Delta diverters who have no rights and that recent case law holds that the ever present water supply in the Delta does not exist. Those assertions are demonstratively false and should not be considered by the Task Force.

It is important to note that the SWRCB has no power to trade-off water rights or alter priorities unless a user is found to be committing waste or is unlawful. Hence the fact that some licensee's use of water prevents "sufficient" or additional supplies from being exported to areas of the State where market forces make the water "more valuable" is no basis to change the licensee's priority or to decrease the amount of his use. As previously stated to the Task Force, the concepts of "reasonable use" and "public trust" cannot be used to alter priorities. Again, given the priorities of water law, there is no basis under which one can "balance" the needs of one permittee/licensee against another.

The reasonable conclusion is that Justice Robie's statements about balancing are merely references to the processes under which the SWRCB determines water quality objectives, and limits on exports. They are not and cannot be the basis for ignoring clear statutory language protecting the Delta, or for altering water right priorities.

Please call me if you have any questions or comments.

Very truly yours,



JOHN HERRICK

cc: Mr. Phil Isenberg, Chair
Mr. John Kirlin, Executive Director
Ms. Monica Florian
Mr. Richard Frank
Mr. Thomas McKernan
Ms. Sunne Wright McPeak
Mr. William Reilly
Raymond Seed, Ph.D.



Making San Francisco Bay Better

March 24, 2008

John Kirlin
Executive Director
Delta Vision
650 Capitol Mall
Sacramento, CA 95814

SUBJECT: Comments on *Delta Vision* report

Dear Mr. Kirlin:

I am writing to provide the comments of the staff of the San Francisco Bay Conservation and Development Commission to the Delta Vision Governance and Finance Work Group. We fully support Governor Schwarzenegger's goal, as stated in Executive Order S-17-06, of managing land and water in the Sacramento-San Joaquin Delta in a manner that enhances "the environmental quality of the Delta and the economic and social well-being of the people of the state."

As you know, our staff is participating in the Delta Vision process because we have been invited to share information about the Commission as a model of effective governance. The other purpose of our participation is to ensure that the Delta Vision strategic plan includes a strong emphasis on protecting the natural resources of San Francisco Bay, including Suisun Marsh. Although much of the Delta lies beyond the Commission's jurisdiction, the Suisun Marsh is within the Commission's jurisdiction, and management of the Marsh is likely to be an important component in the Task Force's strategic plan. In addition, measures taken in the Delta have the potential to affect the entire Bay-Delta ecosystem. Because of our shared interests, we appreciate your offer to collaborate with our staff as the Task Force prepares its strategic plan for implementing the recommendations presented in the *Delta Vision* report. We believe that this collaboration will provide for more comprehensive and better management of the Bay-Delta estuary.

Our staff comments are based on the Commission's laws—the McAteer-Petris Act and the Suisun Marsh Preservation Act—and the Commission's *San Francisco Bay Plan* (Bay Plan) and the *Suisun Marsh Protection Plan* (Marsh Plan), which are part of the Commission's federally-approved management plan for the San Francisco Bay segment of the California coastal zone, pursuant to the federal Coastal Zone Management Act (CZMA).

Our comments reflect what we see as the Commission's two primary roles in Delta Vision: (1) as a model of an effective regional coastal management agency with characteristics that may be worth emulating in the Delta; and (2) as a partner and collaborator in Bay-Delta land and resource management, particularly in the Suisun Marsh.

Commission as a Model. The Commission's area of jurisdiction includes all tidal areas of the Bay and its "shoreline band," which extends 100 feet inland from the Bay jurisdiction. The Commission also has jurisdiction over the Suisun Marsh and other managed wetlands adjacent to the Bay, salt ponds, and certain waterways. Most activities conducted within the

John Kirilin
March 24, 2008
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Commission's jurisdiction require Commission permits. In addition to any needed permits under its state authority, federal activities that affect the Commission's jurisdiction, including licenses, grants, and permits, are subject to consistency review by the Commission, pursuant to the federal CZMA, for their compliance with the Commission's federally-approved coastal management program for the Bay.

The Suisun Marsh Preservation Act of 1977 (Marsh Act) is the primary state law that requires the Commission to regulate activities in the Marsh. The law operates in conjunction with the Marsh Plan, which is a set of findings and policies that guide the Commission in its review of project proposals. These policies address the environment, water supply and quality, natural gas resources, utilities, facilities and transportation, recreation and access, water-related industry and land use and management.

After the adoption of the Marsh Plan and the Marsh Act, Solano County prepared a more specific set of policies and procedures known as the Suisun Marsh Local Protection Program, which was approved by the Commission. The Suisun Resource Conservation District (SRCD), Solano County Mosquito Abatement District, and the City of Fairfield and Suisun City each have their own components of this local protection program, which guides the management of land uses and activities in the portion of the marsh within their jurisdictions.

The Marsh Act divides the Marsh into two units. The Primary Management Area, within which the Commission issues development permits, consists of tidal areas, managed and seasonal wetlands and lowland grasslands. The Secondary Management Area, within which Solano County and Suisun City and the City of Fairfield issue permits, consists primarily of upland grassland areas. The locally issued permits can be appealed to the Commission.

Between 1990 and 2005, which represents half of the Suisun Marsh Preservation Act's 30-year history, the Commission issued approximately 44 permits in the Primary Management Area of the Suisun Marsh or an average of three marsh development permits a year. The majority of these permits have been for utilities such as telecommunications and for exploratory natural gas drilling. The other types of projects for which the Commission issued permits include new pipelines, duck hunting club expansions, grading, gravel removal, subdivisions, restoration projects, and the development of new single-family residences.

As I described in my testimony before the Delta Vision Task Force, the success of the Commission can be attributed to two key factors. First, the Bay Plan and Marsh Plan are strong, yet flexible. Both plans were endorsed by the Legislature, providing strength and durability to their visions of preventing inappropriate development, protecting and restoring wetlands, and providing public access. The plans are also flexible, because the Commission has the authority to amend them in order to adapt to changing conditions and incorporate new scientific information.

Second, the Commission has a federally-approved coastal management program under CZMA. The CZMA requires federal agencies to carry out their actions that impact the Bay in a manner consistent with the Commission's laws and policies and provides the Commission with the authority to review the federal consistency determinations. This requirement has been crucial in protecting the Bay and Suisun Marsh from the potential adverse effects of dredging of federal channels, federally-financed highway construction, and military base activities and changes in use. If a Delta agency were to develop a federally-approved coastal management program, federal water diversions, dredging and levee maintenance, highway construction and power plant operations would be required to be consistent with that program.

John Kirilin
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Commission as a Partner. We believe it would be beneficial for the Delta Vision Task Force's strategic plan to provide for improved coordination for management of the natural resources of the Bay and Delta. In the absence of such a coordinated approach, some of the actions taken to improve ecological conditions, water supply reliability and public safety in the Delta could inadvertently adversely impact conditions in Suisun Marsh and/or the Bay.

Specifically, we urge the Task Force to ensure that its strategic plan promotes integrated Bay-Delta management by referencing and incorporating the legally binding policies of the *San Francisco Bay Plan* and *Suisun Marsh Protection Plan*, and by addressing the Commission's Climate Change Strategy proposal. The Commission's top concerns include:

- Ensuring adequate fresh water inflow to the Bay and the Suisun Marsh;
- Coordinating wetland restoration in the Bay and Delta;
- Improving land use planning to address flood hazards and climate change; and
- Coordinating governance of Bay-Delta natural resources and land use.

Fresh Water Inflow. The *Delta Vision* report states, "Sufficient freshwater flows of the right temperature and timing are...critical in sustaining the estuary." *San Francisco Bay Plan* and *Suisun Marsh Protection Plan* policies reflect this principle and provide additional guidance regarding legal requirements promulgated by the State Water Resources Control Board.

The Bay Plan recognizes the importance of fresh water inflows to the ecosystem of the Bay. Bay Plan findings state that "conserving fish, other aquatic organisms and wildlife depends, among other things, upon availability of ...proper fresh water inflows, temperature, salt content, water quality, and velocity of the water."

The Bay Plan's Fresh Water Inflow policies state, in part:

Diversions of fresh water should not reduce the inflow into the Bay to the point of damaging the oxygen content of the Bay, the flushing of the Bay, or the ability of the Bay to support existing wildlife....

High priority should be given to the preservation of Suisun Marsh through adequate protective measures including maintenance of freshwater inflows....

The impact of diversions of fresh water inflow into the Bay should be monitored by the State Water Resources Control Board, which should set standards to restore historical levels (1922-1967) of fish and wildlife resources. The Bay Commission should cooperate with the State Board and others to ensure that adequate fresh water inflows to protect the Bay are made available.

The Marsh Plan recognizes that the Suisun Marsh, located where salt water and fresh water meet and mix, contains "the unique diversity of fish and wildlife habitats characteristic of a brackish marsh."

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Marsh Plan policies state, in part:

There should be no increase in diversions by State or Federal Governments that would cause violations of existing Delta Decision or Basin Plan standards....

Water quality standards in the Marsh should be met by maintaining adequate inflows from the Delta.

To address these policies, we recommend that the Task Force consider the fresh water flow needs of the entire estuary, not just the Delta. This includes the need for peak flows that transport sediment and nutrients to the Bay, increase mixing of Bay waters, and create low salinity habitat in Suisun Bay, San Pablo Bay and the upper part of central San Francisco Bay.

Wetland Restoration. *Delta Vision* states, "The goal for the Delta should be to create a more heterogeneous estuarine environment, including a diverse habitat mosaic, expanded areas of seasonal and tidal wetlands...." Similarly, the Marsh Plan and the Bay Plan call for wetland restoration and enhancement around the Suisun Marsh and the Bay.

Much of the Bay's historic tidal wetlands have been lost, including 80 percent of tidal marshes and 40 percent of tidal flats. The Bay Plan encourages wetland restoration and enhancement.

The Bay Plan's policies state, in part:

Where and whenever possible, former tidal marshes and tidal flats that have been diked from the Bay should be restored to tidal action in order to replace lost historic wetlands or should be managed to provide important Bay habitat functions, such as resting, foraging and breeding habitat for fish, other aquatic organisms and wildlife. As recommended in the *Baylands Ecosystem Habitat Goals* report, around 65,000 acres of area diked from the Bay should be restored to tidal action....

If the owner of any managed wetland withdraws any of the wetlands from their present use, the public should make every effort to buy these lands and restore to tidal or subtidal habitat, or retain, enhance and manage these areas as diked wetland habitat for the benefit of multiple species. This type of purchase should have a high priority for any public funds available.

Ongoing large-scale efforts to restore Bay wetlands have great potential to benefit the entire estuary, including species of concern, yet these projects could be adversely affected if Delta management actions, such as restoring Delta islands, result in the capture of sediments that would otherwise flow to the Bay.

The Bay Plan's dredging policies encourage the reuse of dredged material in wetland restoration projects, as appropriate, and support efforts to fund the additional costs associated with transporting dredged material to project sites. We suggest that the Task Force's strategic plan encourage the coordination of use of dredged material in the Bay and Delta as part of a regional sediment management strategy.

The Commission has a long and successful history of managing natural resources in the Suisun Marsh. The Commission is currently participating in the Suisun Marsh Charter Group to develop a new Habitat Management, Preservation and Restoration Plan for Suisun Marsh. Our

John Kirlin
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priorities for the new plan include enhancing seasonal and managed wetlands that provide essential wintering habitat for waterfowl of the Pacific Flyway, supporting tidal restoration, and supporting maintenance of Suisun Marsh levees.

Suisun Marsh Protection Plan policies state, in part:

The diversity of habitats in the Suisun Marsh and surrounding upland areas should be preserved and enhanced wherever possible to maintain the unique wildlife resource....

Where feasible, historic marshes should be returned to wetland status, either as tidal marshes or managed wetlands. If, in the future, some of the managed wetlands are no longer needed for private waterfowl hunting, they should be restored to tidal or subtidal habitat, or retained as diked wetland habitat and enhanced and managed for the benefit of multiple species....

The Suisun Resource Conservation District should be empowered to improve and maintain exterior levee systems as well as other water control facilities on the privately owned managed wetlands within the primary management area.

Our staff urges the Task Force to incorporate Marsh Plan and Bay Plan policies as it develops the recommendations in its strategic plan in order to ensure that wetland restoration in the Bay and Delta are coordinated to maximize public benefits.

Climate Change, Flood Hazards and Land Use Planning. *Delta Vision* states, "Land use choices should both protect human residents from disaster and preserve management flexibility for the Delta over the long term.... The impacts of climate change—especially rising sea level and increased precipitation runoff patterns—will only exacerbate future threats to public safety associated with [floodplain] development in the Delta." The Commission's Bay Plan policies support the principle of reducing current and future flood risk through land use planning.

The Bay Plan's Safety of Fills Policy 6 states:

Local governments and special districts with responsibility for flood protection should assure that their requirements and criteria reflect future sea level rise and should assure that new structures and uses attracting people are not approved in flood prone areas or in areas that will become flood prone in the future, and that structures and uses that are approvable will be built at stable elevations to assure long-term protection from flood hazards.

The Commission staff is currently preparing proposed amendments to the Bay Plan policies to address sea level rise and other climate change considerations in managing the Bay and Suisun Marsh, and has begun collaborating with local and regional government agencies to develop adaptive strategies. Our staff proposes a collaborative approach by Bay and Delta land use planning and regulatory agencies and stakeholders to address the issues posed by climate change.

Governance Changes. *Delta Vision* states, "The current boundaries and governance system of the Delta must be changed. It is essential to have an independent body with authority to achieve the co-equal goals of ecosystem revitalization and adequate water supply for California—while also recognizing the importance of the Delta as a unique and valued area."

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The Commission staff recognizes that the Suisun Marsh is an important component of both the Bay and the Delta. Any new Delta governing body should recognize and be coordinated with the Commission's successful management of the Marsh in collaboration with the Suisun Resource Conservation District, the Department of Fish and Game, and other local landowners. The Commission staff recommends that coordination between the new Delta governing body and the Commission be achieved by mandating that, where areas of jurisdiction overlap, the same appointees sit on both the Commission and the new Delta governing body, particularly the Commissioners from Solano County and Contra Costa County.

Conclusion. A coordinated approach to Bay-Delta resource management is needed to adequately address four key issues: freshwater inflow, wetland restoration, climate change adaptation, and Bay-Delta governance. Our staff, therefore, strongly encourages the Task Force to acknowledge the *San Francisco Bay Plan* and *Suisun Marsh Protection Plan* policies and welcomes collaboration to achieve improved Bay-Delta management as described above. The Task Force can thus ensure that its Vision and strategic plan benefits the natural resources, public safety and economic well-being of the entire Bay-Delta region.

Sincerely,



WILL TRAVIS
Executive Director

cc: Commissioners and Alternates
Assemblymember Joe Simitian
Assemblymember Lois Wolk
Steve Chappell, SRCD
Joe Grindstaff, CALFED

Delta Vision Blue Ribbon Task Force
CORRESPONDENCE LOG

Letter GC-24

To: Governor Arnold Schwarzenegger John Kirlin, Executive Director
 Senator Carole Migden Delta Vision Program
 Assemblyman Mark Leno

RE: Water & Fish → No dams & No peripheral canal.

Attached: Article: A deal on Klamath's dams, Editorial, SF Chronicle, 1/21/08
 Article: Chinook salmon run shrinks – fishing industry alarmed, SF Chronicle, 1/30/08
 Article: Lower River Flows, Lack of food blamed ...salmon run, SF Chronicle, 3/24/08

Dear Distinguished California State Officials,

The attached articles from The Chronicle show how California is not only at a crossroads for water but also for fish. At the same time the American Medical Association is calling on Americans to eat more fish for a number of health benefits.

We need more fresh water in the Delta to support bait fish which the larger predatory fish, such as salmon and steelhead, eat. This means decreased export flows down the aqueducts, not a peripheral canal. Avoiding the pumps is not the point.

In the attached editorial you will see there is an upcoming decision to actually take down the dams on the Klamath. We need more unimpeded rivers so fish can swim upstream to reproduce naturally and for free. The alternative is building dams and forcing us to fund a poor replacement for natural reproduction: hatcheries. No more dams.

Previous Klamath & San Joaquin court decisions for adequate water flow, based on sound science, also highlight the legal aspect and importance of unimpeded free flowing rivers.

I urge you: **No Dams and No Peripheral Canal**

Californians don't want to pay for either, and they are counterproductive.

Thank you,

Matt Richardson
 Matt Richardson, DPT
 Doctor of Physical Therapy
 Saint Francis Memorial Hospital
 San Francisco, CA 94109

Mail:

1855 Green Street
 San Francisco, CA 94123
 Cell: 415-577-7080

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SF Chronicle EDITORIALS
1/21/08

A deal on Klamath's dams

For complexity, the years-long water war along the Klamath River rivals the Middle East. A list of contending parties, long-held grievances and state borders have strained hopes of settlement. Until now.

Some two dozen interest groups ranging from back-country sugar beet farmers to coastal fishing groups have reached an agreement that could lead to demolition of four century-old dams

straddling the California-Oregon border. Much remains undecided such as the source of an estimated \$1 billion to remove the dams and improve the river system.

But it's hard to miss the main point: nearly all sides believe the dams can come down. If that happens, the demolition work would produce the largest dam removal in the nation. Operators of other river-blocking barriers will be on notice.

For now, focusing on this river alone will do. The Klamath, once a productive storehouse of salmon, is a sickly stream due to diversions, pollution and the targeted dams near its headwaters some 350 miles from the Pacific Ocean.

Just as its problems stem from many sources, so do the active players looking to improve their chances in any remake of the river. The agree-

ment calls for steady flows of irrigation water to Oregon farmers, with the amounts varying during wet and dry years. Environmental and fishing groups will be assured of more downstream flows that, over time, should help salmon rebound and repopulate 60 miles of the dammed-off river. A devastating drought in 2001 and water diversions the next year killed some 33,000 fish, a double disaster that kick-started the settlement talks.

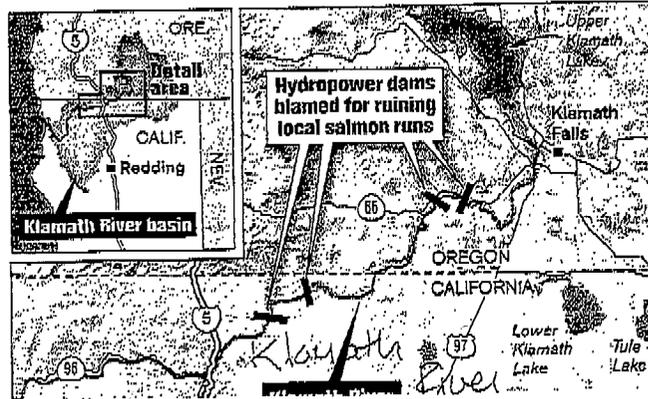
One holdout is the dam's owner, the PacifiCorp power company controlled by financier and philanthropist Warren Buffett. While not

After decades of acrimony, a solution is in sight.

ruling out the dam removals, a spokesman says the company needs to know how demolition will be paid for, where dam-generated power for 70,000 customers will come from, and what liabilities might come from taking down the structures, among the oldest in the West.

Also, the Hoopa tribe, with a down-river reservation, and several environmental groups feel the agreement is too generous in giving farmers irrigation water.

Important questions are still unanswered, and not all participants have had their way. But the chance to rebuild a dying river in a way that could instruct the rest of the country is an moment that must be seized.



San Francisco Chronicle

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Chinook salmon run shrinks — fishing industry alarmed

By Jaire Kay

CHRONICLE ENVIRONMENT WRITER

The Central Valley fall run of chinook salmon apparently has collapsed, portending sharp fishing restrictions and rising prices for consumers while providing further evidence that the state's water demands are causing widespread ecological damage.

The bad news for commercial

and sport fishermen and the salmon-consuming public surfaced Tuesday when a fisheries-management group warned that the numbers of the bay's biggest wild salmon run had plummeted to near record lows.

In April, the Pacific Fishery Management Council will set restrictions on the salmon season, which typically starts in May. A shortage could drive up the price

of West Coast wild salmon. The council's leaders said the news is troubling because normally healthy runs of Central Valley chinook salmon are heavily relied upon by fishermen. Runs on the other river systems historically have been smaller.

The low returns are particularly distressing since this stock has consistently been the healthy

► FISH: Page A10



Members of salmon returning to spawn are well below what fishermen expected.

KAY KAUFMAN/The Chronicle 2008

Delta Vision Blue Ribbon Task Force
CORRESPONDENCE LOG

San Francisco Chronicle

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★

Low river flows, lack of food blamed for dismal salmon run

Water diversion, poor ocean upwellings were one-two punch for fish, scientists say

By Jane Key

CHRONICLE ENVIRONMENTAL WRITER

Amid growing concern over an imminent shutdown of the commercial and sport chinook salmon season, scientists are struggling to figure out why the largest run on the West Coast hit rock bottom and what California can do to bring it back.

til fish markets in May didn't find those life-sustaining conditions. And some scientists say that's the likeliest explanation for why the number of returning spawners plummeted last fall to roughly 90,000, about 10 percent of the peak reached just a few years ago.

The devastating one-two punch happened as the water projects in the Sacramento-San Joaquin River Delta pumped record amounts of snowmelt and rainwater to farms and cities in Southern California, degrading

the salmon's habitat. And once the chinook reached the ocean, they couldn't find the food they needed to survive where and when they needed it.

"You need good conditions in the rivers and ocean to get survival and good returns for spawning," said Stephen Raikow, supervisory research fisheries biologist with the National Oceanic and Atmospheric Administration, or NOAA, and a science adviser to the Pacific Coast Fishery Management Council.

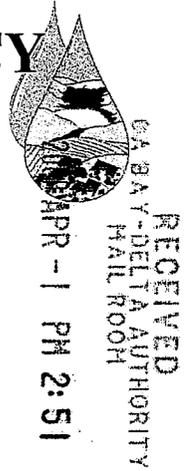
▶ SALEM: Page A14

▶ **Graphic:** How a combination of river and ocean events during the chinook salmon's lifecycle may have contributed to one of the lowest counts on record in 2007 of the returning Sacramento River run. A14



Karenick White/Gold Images
A hatchery chinook salmon is ferred to a breeding tank in Shasta Lake.

SOLANO COUNTY WATER AGENCY



March 27, 2008

Leo Winternitz
Delta Vision Program
650 Capitol Mall
Sacramento, CA 95814

Dear Mr. Winternitz:

The Delta Vision Blue Ribbon Task Force has established a work group on water supply and reliability. The charge to the work group includes "identify strategies to co-equally manage water quality to meet drinking water and ecosystem requirements".

Attached is some information regarding the alternate intake project for the North Bay Aqueduct. Some of the Delta Vision documents include references to the alternate intake project. We wanted to ensure that the work group is informed about the alternate intake project, as it is an important component to water supply and reliability for the North Bay Aqueduct contractors of the State Water Project.

Delta Vision has recommended substantial ecosystem habitat improvements in the North Delta area that will have a direct adverse impact (i.e. organic carbon) to the drinking water quality of the North Bay Aqueduct. The alternate intake project will mitigate those impacts, thus it is important to be part of an overall Delta Vision.

There also as an ESA and CESA take issue with the new habitat improvements intentionally creating habitat for ESA and CESA species in the North Delta. We assume that the North Bay Aqueduct take coverage will be provided by the SWP/CVP Biological Opinions and, in the long term, the BDCP. However there are numerous agricultural diversions in the area that will have ESA and CESA take issues with newly created habitat. The Delta Vision must also address this problem.

If you have any questions please contact me at (707) 455-1103 or by e-mail at dokita@scwa2.com.

Attachments

Sincerely,

David B. Okita
General Manager

Cc: Byron Buck, MWD
Greg Zlotnick, Santa Clara Valley Water District
Brent Walthall, Kern County Water Agency
Elaine Archibald, California Urban Water Agencies

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SOLANO COUNTY WATER AGENCY



North Bay Aqueduct Alternate Intake Project
(July, 2007)

The North Bay Aqueduct is part of the State Water Project that serves Solano and Napa Counties. The North Bay Aqueduct provides an important municipal and industrial water supply to over 400,000 people.

The Alternate Intake project is the construction of a new pumping station on or near the Sacramento River at Courtland and pipeline to connect to the existing North Bay Aqueduct. A feasibility study, funded by a CALFED grant has been completed. Capital costs were estimated at about \$150 million (2003 dollars).

There are two reasons for an alternate intake for the North Bay Aqueduct: drinking water quality and endangered species protection.

The North Bay Aqueduct has the poorest water quality in the State Water Project. North Bay Aqueduct water is high in organic carbon and turbidity. Organic carbon reacts with disinfection chemicals to form byproducts that can lead to cancer. High turbidity causes water treatment plant challenges, including higher usage of chemicals to reduce turbidity. Changing drinking water quality regulations make it increasingly difficult to treat North Bay Aqueduct water.

The North Bay Aqueduct pumps water from Barker Slough. The Barker/Cache Slough area is a documented spawning area for the endangered Delta smelt. The Barker/Cache Slough area has been identified in the Public Policy Institute of California report "Envisioning Futures for the Delta", and other reports, as a key area for freshwater tidal restoration. This type of restoration project creates better habitat for fishes like Delta smelt. If restoration is conducted in this area, increased fish populations will be susceptible to entrainment at the North Bay Aqueduct pumps. Also, marshes can create organic carbon and other pollutants, such as methyl mercury, that could worsen water quality at the North Bay Aqueduct.

Improving/protecting water quality and protection of endangered species are public benefits that justify state funding of some of the costs of an Alternate Intake Project. North Bay Aqueduct water users are willing to cost share with the State on this project.

The California Department of Water Resources will be starting the permitting for the Alternate Intake Project.

N24A - North Bay Aqueduct Alternate Intake Project

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Phone (707) 451-6090 • FAX (707) 451-6099
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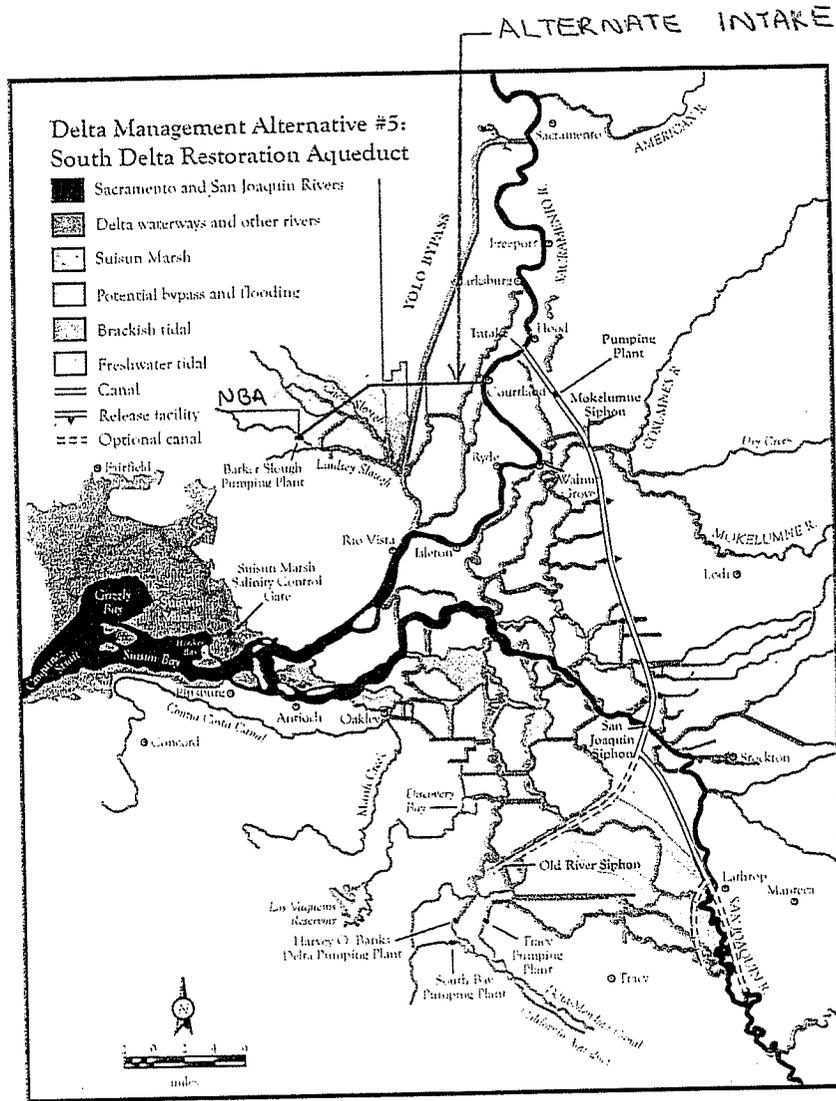


Figure 7.3—Delta Management Alternative #5: South Delta Restoration Aqueduct