



**CHAIR** – DAVID FINIGAN, DEL NORTE COUNTY

**FIRST VICE CHAIR** – HARRY OVITT, SAN LUIS OBISPO COUNTY

**SECOND VICE CHAIR** – LARRY MUNGER, SUTTER COUNTY

**PAST CHAIR** – SUE HORNE, NEVADA COUNTY

**PRESIDENT AND CEO** – GREG NORTON

**EXECUTIVE VICE PRESIDENT** – PATRICIA J. MEGASON

**VICE PRESIDENT OF HOUSING** – JEANETTE KOPICO

September 2, 2008

Phil Isenberg, Chair  
Delta Vision Blue Ribbon Task Force  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

**Re: Delta Vision Strategic Plan – 3<sup>rd</sup> Draft dated August 14, 2008**

Dear Chair Isenberg:

On behalf of the thirty-one member counties of the Regional Council of Rural Counties (RCRC), I am pleased to submit for your consideration comments on the Third Draft Delta Vision Strategic Plan (Strategic Plan) dated August 14, 2008.

Please note for the next “Comment Matrix” that RCRC should be classified as “Government” or “Local Government” not “Water”.

**General Comments.** RCRC has significant concerns with the draft Strategic Plan, and offers the following comments and observations:

- The Governance proposal is unlikely to receive broad support, especially the creation of an all-powerful California Delta Ecosystem and Water Council.
- The Strategic Plan assumes that unlimited financial resources will be made available for implementation. This assumption is unrealistic and brings into question the value of the Strategic Plan.
- The Strategic Plan contains numerous unsubstantiated assumptions and assertions. In order for the Strategic Plan to be taken seriously, the Delta Vision Blue Ribbon Task Force (Task Force) should ensure that the studies and reports relied upon are documented. Statements which cannot be substantiated should be deleted.
- The Strategic Plan contains numerous examples of anti-water right priority system and anti-area of origin water rights commentary. These statements should be deleted. Encouraging the initiation of proceedings to compel the reallocation of water is not productive.
- The “Delta-centric” nature of the Task Force’s recommendations raises numerous concerns. The Strategic Plan should include adequate assurances that programs or facilities implemented or constructed in the Delta will not result in redirection of adverse impacts to the counties and watersheds of origin.

- The Strategic Plan proposes both new water storage and new or improved water conveyance, thus carrying forward the policies of state water development of which the County of Origin and Watershed of Origin statutes were integral parts. Express recognition and reiteration that the future needs for water in the counties and watersheds in which this water originates will not be jeopardized is as essential to contemporary water resources planning as it was to the original California Water Plan.

**Introduction.** The Strategic Plan continues to include anti-water right priority/area of origin commentary. The two page Introduction (Pages 3 and 4) includes the following:

*“California’s system of water rights, including reasonable use and public trust principles, provides a sound framework for implementing these recommendations.” “However, new legislation will be required.....”*

*“.....claims that change cannot apply to a specific area or water use are already heard and can be expected to increase. Many of these claims are and will continue to be advanced with legal rationale.....”*

*“Granting preferential treatment upon any interest now will only compound and increase the difficulty of future policy making and the cost of eventual adaption.”*

*“....claims of privileged position....”*

*“....continuation of inconsistent and unbalanced current behaviors or policies that favor one or another interest or region.”*

Additionally, in several other places the Strategic Plan makes statements similar to the following statement found on page 15: *“...water required to revitalize the ecosystem will not be purchased, but will be provided within the state’s water rights system by exercising the constitutional principles of reasonable use and public trust.”* RCRC believes that all anti-water right priority and anti-area of origin references should be deleted from the document. Please also see RCRC’s comments dated July 11, 2008 on this topic.

A stakeholder on the Second Draft of the Strategic Plan suggested that the Delta Vision Task Force (Task Force) convene a panel of experts to discuss the legal and practical aspects of any water reallocation proposals. RCRC seconds this suggestion.

The Strategic Plan, as previously stated, includes the following (partial) statement: *“Many of these claims are and will continue to be advanced with legal rationale....”* RCRC has no doubt that senior water right holders will respond vigorously to any attempt to reallocate water without regard for California’s water right priority system and area of origin protections.

**Current behaviors and policies are unsustainable.** (Page 3). The Strategic Plan makes a statement that current laws and regulations are insufficient “to resolve these challenges”. This statement is, in RCRC’s opinion, inaccurate. The State does not need more laws nor another layer of government – but rather clear direction to the agencies responsible for implementation.

**Meeting difficult challenges.** (Page 4) The Strategic Plan states that “...all irrigated agriculture will face increased water prices in the future”, “Investments in permanent crops...will become more risky” and “...achieving reliable water supplies for all uses at low prices cannot be achieved.” RCRC does believe that the State and federal governments will have to seriously look at the issue of food security

and affordability in the future. RCRC believes that achieving reliable water supplies for “critical uses” should include the production of food and fiber in California.

**Drivers of change.** (Page 9) The Strategic Plan states that “Demand for new water diversions throughout the watershed will grow inexorably unless major changes are made in how we manage water in the state.” (emphasis added) Clarification of what this statement means is requested.

It is true, as stated, that “demand for water in the Delta watershed will increase.” This is inevitable as the state’s population increases, and it is exactly why the area of origin, county of origin, and watershed of origin statutes were enacted.

When funding for water storage, conservation, etc. is discussed in the Strategic Plan, the Task Force might want to note the fact that it would benefit in-Delta and export water users if funding (bonds, etc.) were made available to upstream water diverters for projects that will increase the local water supply, as this may ultimately make more water available for downstream water users.

**Consistency, not Chaos.** (Page 11) The Strategic Plan contains the phrase “not through top-down control by one ‘super agency.’” RCRC believes that this description of the proposed governance structure is inaccurate and misleading. One example of why we believe this can be found on page 15 of the document where it states that the proposed Council would “ensure implementation success by empowering the California Delta Ecosystem and Water Council (CDEW Council) to require agency adherence to the CDEW Plan, by control of significant financial resources, and by other means.” Other examples can be found throughout the document. RCRC found the possible remedies put forward to deal with inconsistent actions by federal, state, and local agencies in the Delta particularly heavy-handed (Page 86).

**Existing governance shortcomings.** (Page 12) The Strategic Plan lists some of the Task Force identified major shortcomings of the existing governance of the Delta. One of the shortcomings is that “The principles of reasonable use and public trust are not routinely incorporated into the management of the Delta.” RCRC does not believe that this statement is accurate. It is RCRCs understanding that the State Water Board utilizes these doctrines when establishing water quality objectives.

Another of the shortcomings listed states “There is insufficient data about many issues critical to the management of the water system.....”. RCRC agrees with this portion of the statement. Given this fact, RCRC is taken aback by the very specific assumptions and assertions made throughout the Strategic Plan. Readers of the Strategic Plan may be mislead into believing that all of these assumptions and assertions are factual (i.e. based on scientific studies, etc.). RCRC urges that all of the assumptions and assertions in the document be closely reviewed for validity prior to finalization of the document and that footnotes identify and link to the report, study, etc. relied upon in making the statement. Statements that cannot be substantiated should be deleted from the Strategic Plan.

RCRC believes it likely that the Strategic Plan will spawn a multitude of legislative proposals in the years that follow its release. RCRC also believes it would be a real disservice to the people of the State if the Task Force does not make every effort to ensure the factual basis of the content of the Strategic Plan.

**A new governance structure.** (Page 14) The Strategic Plan discusses the creation of an appointed CDEW Council and the creation/implementation of a California Delta Ecosystem and Water Plan (CDEW Plan). RCRC was still reviewing the proposed governance structure when we submitted our July 11, 2008 comments, but we did at that time express concern about the proposed significant expansion of the bureaucracy and its associated costs in both time and money.

The Delta Vision Blue Ribbon Task Force proposes a multi-part governance structure as follows:

- California Delta Ecosystem and Water Council
- Delta Operations Team
- California Water Utility
- Delta Protection Commission (refashioned)
- Delta Conservancy
- Delta Science Program
- Delta Science and Engineering Board
- Public Advisory Group

Additionally, the Third Draft of the Strategic Plan calls for an “independent assessment team” that will monitor and regularly evaluate performance measures towards achieving the Delta Vision (Page 24) and an “independent and objective board” to issue a Delta Vision Report Card on a regular basis.

Having given further consideration to the proposed governance structure, RCRC is of the firm opinion that the Task Force has put forward an overly complex and costly governance structure. Please see RCRC’s more detailed comments on this topic below.

**Managing Delta water flows in statewide context.** (Page 16) The Strategic Plan lays out the Task Force’s two key strategies as follows: 1) increasing water use efficiency and conservation in all uses of water in the Delta watershed (emphasis added); and, 2) maximizing regional water self-sufficiency throughout the state. Why is the Delta watershed specifically targeted as opposed to increasing water use efficiency and conservation statewide?

**Storage for the co-equal goals.** (Page 18) The Strategic Plan states “...improved conveyance across the Delta serves little purpose without places south of the Delta to store the water” and specifically notes “long term demand growth” in southern California. Also quoted is a statement from the Vision “...new facilities for conveyance and storage, and better linkage between the two, are needed to better manage California’s water resources, for both the estuary and exports.”

RCRC believes that the goal of “water supply reliability” should include all of California – northern California as well as in-Delta and export water users. The Strategic Plan should specifically call out the need for north-of-Delta storage (surface and groundwater) to meet increasing long term water needs in the areas of origin.

**The challenge of land use.** (Page 21) The Strategic Plan proposes that the Delta Protection Commission’s primary purpose should be change to “...ensure that state interests related to the Delta are thoroughly protected...” Please see RCRC’s July 11, 2008 comments on this topic.

**Preparing for emergencies.** (Page 22). The Strategic Plan proposes that the CDEW Plan should “identify the appropriate designs for specific levees and prioritize needed improvements” as well as “identify beneficiaries of levee improvement and determine the appropriate cost sharing among the beneficiaries”. This is just one of many complex issues proposed to be addressed in the CDEW Plan. Please see RCRC’s comments below relating to the CDEW Plan.

**Financing the future.** (Page 23) The Strategic Plan lays out three major principles. The first is “Private beneficiaries should be assigned proportional shares of revenue obligations and of risks and liabilities, while the public is responsible for activities of broader benefit.” How does the Task Force define “private beneficiaries”?

The second principle states that “Revenues should be received by, and allocated by, the same entity that formulates policy – i.e. the CDEW Council – to assure consistency.” RCRC does not understand the “consistency” statement – but it is clear that it is the Task Force’s intention that the Council will exercise control over state, regional, and local agencies by virtue of holding the purse-strings. This is just another example of where the proposed powers of the Council is overreaching.

The third principle is “Access to state funding for any purpose related to the CDEW Plan must be contingent upon a project contractor or a water right holder demonstrating full compliance with all aspects of California resource laws and policies. Please see RCRC’s July 11, 2008 comments on this topic. Full compliance with every requirement is not a reasonable performance standard.

**Reporting Progress.** (Pages 25-28) The Strategic Plan proposes eight indicators that should be evaluated and reported upon including “Water Use Productivity”. RCRC is opposed to the inclusion of this concept as it is at odds with the California’s water right system.

The Strategic Plan section lays out in the “Table 2 Report Card” indicators and associated performance measures. RCRC will not comment on each, but will make a few observations.

Under “Water Use Productivity” the Task Force proposes to use a 2008 baseline. There is no discussion or justification provided as to why a 2008 baseline is appropriate. The same can be said about utilizing a 2008 base year under Water Supply Reliability, etc. Under Delta Outflow there is no discussion or rationale offered for the pulse flows numbers on the San Joaquin River (2,000-3,000 cfs) nor the outflow numbers for the Delta (12,000-18,000 cfs).

As noted previously, the inclusion of unsubstantiated statements, assumptions and numbers in the Strategic Plan is of great concern to RCRC. RCRC again urges that the Task Force put each assumption, assertion, number, etc. under a microscope prior to finalization of the Strategic Plan. In the interest of transparency the Task Force should identify and make available through footnotes with links the studies, reports, etc. upon which their recommendations rely.

**Phasing.** (Page 29) The Strategic Plan proposes to begin with six policy initiatives. The first is Delta Governance Restructuring which includes restructuring institutions to achieve the co-equal goals, and secure financing. Please see RCRC’s comments below as well as our July 11, 2008 comments on this topic.

The second policy initiative calls for reducing per capita water consumption 20% by 2020 and 40% by 2050. RCRC requests that the data relied upon to make the 40% by 2050 recommendation be identified in a footnote and a link provided to the document or documents. There should also be discussion as to implications of a reduction of such magnitude on outdoor water use.

The third policy initiative would require the development of integrated water management plans for the state’s 190 watersheds. If such a mandate were put into place it should be accompanied by funding to assist in the development of IRWMPs.

**Strategy 1. Vastly improve the efficient use of water.** (Page 31) The Strategic Plan states that we must “...reduce the water demand necessary to produce the crops that feed us...”. One cannot reduce the amount of water needed to produce a particular crop. Water conservation, relative to the efficient use of water by agriculture, is the use of cost-effective measures that reduce evapotranspiration, evaporation or flows to salt sinks (unusable bodies of water) while not diminishing commodity production.

Also stated is “Governor Schwarzenegger has already established a target of reducing California per capita water use by 20% by 2020,...”. Please note that the Governor called for a 20% reduction in urban per capita water use.

In discussing opportunities for improving agricultural water use, the Strategic Plan states that these opportunities “..do not currently result in water savings available for other uses.” Agricultural water use efficiency should not be depended upon to result in water “for other uses.” Farmers are just as likely to utilize conserved water to grow additional crops as they are to transfer water for other uses. This is an individual business decision that depends upon a myriad of factors specific to an agricultural operation.

The Strategic Plan makes a number of statements relative to agricultural production i.e. “can be expected to shift some of California agriculture to production intended for local and regional use” and “production of agricultural commodity crops for international markets may not be as viable..”. RCRC again urges that the Task Force identify in footnotes with links, the studies and reports upon which these statements are based.

The Strategic Plan lists a number of legislative proposals that would result in more efficient water use. RCRC will not comment on the legislative proposals put forward by the Task Force other than to say that a number of them will be contentious.

**Strategy 2. Optimize regional self-sufficiency by increasing the diversity of local and regional water supply portfolios.** (Page 35-37) The Strategic Plan lists a number of legislative proposals that they believe would increase regional self-sufficiency. As noted earlier, a number of these proposals will also be very contentious.

**Strategy 5. Improve water quality for drinking water, agriculture, and the ecosystem.** (Pages 43-45) The Strategic Plan lists a number of actions that “should” be taken by various agencies. Among the critical elements identified is a study (Page 45) to identify legal water users (in-Delta) that are likely to be significantly impacted by conveyance modifications and to identify potential projects for alternative intakes and conveyance configurations to meet their water supply needs. RCRC strongly agrees that in-Delta water supply needs should not be negatively impacted. RCRC also strongly believes that the study should also look at upstream water uses and ensure that programs or facilities implemented or constructed in the Delta will not result in redirection of unmitigated, significant adverse impacts to the counties and watersheds of origin.

**Strategy 6. Restore extensive interconnected habitats.** (Pages 46-48) The Strategic Plan calls for the restoration of intertidal marshes, seasonal floodplains, and open water habitats. RCRC urges that footnotes with links be used to identify the scientific studies, etc. used as a basis for the very specific number of acres called for in this Strategy.

**Strategy 7. Restore Delta flows and channels to reflect California climate patterns and support a healthy Delta estuary.** (Pages 49-51) The Strategic Plan states that “Variable conditions are widely believed to benefit native species and to be detrimental to many invasive species.” Strategy 7 then goes on to state that the State Board should revise water right permit terms to increase spring outflow and reintroduce fall outflow variability. RCRC is certain that water right holders will want to know that there is more behind a change to variable conditions in the Delta than it is “widely believed”. Studies and reports, etc. backing up the recommendation to increase spring outflow and reintroduce fall outflow needs to be cited or the recommendation should be deleted.

Strategy 7 then goes on to state that the State Board should provide Delta outflows of 12,000 to 18,000 cfs for two month between August and November in certain types of years, one or two pulse flows of 2,000 to 3,000 cfs at Vernalis for a seven-to-fourteen-day duration between September and November, etc. Again, RCRC urges the Task Force to document the scientific studies, etc. upon which each of these statements are based, and to delete any statements that cannot be substantiated.

**Strategy 14. Ensure appropriate land uses in the Delta region.** (Pages 68-71) Please see RCRC's July 11, 2008 comments on the proposed Delta Protection Commission's primary new role, etc. RCRC agrees with other stakeholders that the importance of the Delta should not be utilized as a means to create a governance structure in which county and local governmental oversight and control are ignored.

**Strategy 15. Create a new governance system to manage the co-equal values and other state interests in the Delta.** (Pages 72-82) As stated previously, RCRC believes that the Task Force has put forward an overly complex and costly governance structure. RCRC does not support the creation of the Council as proposed. The proposed responsibilities and powers of the proposed Council are overreaching. If a Council is to be created it should include representatives from the areas of origin, the Delta, water exporters, provide oversight, and be advisory in nature.

To improve regulatory coordination in the Delta RCRC agrees with the suggestion put forward by other stakeholders that this can best be accomplished through the creation of a new Division of Delta Resources within the State Water Resources Control Board (State Water Board).

RCRC does not support the creation of the proposed CDEW Plan. As proposed, the CDEW Plan would take years to develop. RCRC agrees with other stakeholders that the Task Force should instead recommend which agencies should be responsible for implementing its recommendations. Any "recommendations" from the Task Force should be subject to review and due process should the Administration and the Legislature agree with the recommendation.

RCRC has concerns with the proposed creation of a California Water Utility composed of state water contractors who would be charged with operating "...water conveyance and storage systems to meet the Delta Vision's co-equal goals consistent with the recommendations in the CDEW Plan." The Strategic Plan goes on to state that "Achieving the co-equal values in the Delta will require careful management of water flows into and out of the estuary."

First, as the State Water Project (SWP) manages only a portion of overall Delta flows, the proposed California Water Utility would not be in the position of managing all water flows into and out of the estuary, as is implied. Second, RCRC is concerned that without appropriate protections in place, operation of the SWP and CVP to meet the "Delta-centric" co-equal goals could negatively impact upstream beneficial uses.

As other stakeholders have pointed out, the SWP operates Oroville Dam and the Central Valley Project (CVP) operates the Shasta Dam. The SWP and CVP thus have control over streamflows in the Sacramento River and Feather River, which is utilized for diverters under contract and with independent water rights. If a California Water Utility is created, the governance structure should include upstream and export state water contractors and include other upstream water right holders as well.

Please see RCRC's comments dated July 11, 2008 on the issue of environmental justice. As previously stated, the same consideration provided to in-Delta and export disadvantaged communities

should also be given to upstream disadvantaged communities if they are negatively impacted as a result of implementation of the Task Force's recommendations.

**Strategy 16. Create a California Delta Ecosystem and Water Plan to ensure flexibility and consistency of action among state, federal and local entities.** RCRC does not support the creation of the proposed California Delta Ecosystem and Water Plan. Please see RCRC's July 11, 2008 comments on the development of the CDEW Plan, in particular those relating to the State Water Board not being put in the position of "rubber-stamping" Council decisions. RCRC believes that the development and adoption of such a plan would be costly and take significant time and effort that would be better spent addressing the problems at hand.

**Strategy 17. Finance the activities called for in the California Delta Ecosystem and Water (CDEW) Plan through user fees and other effective and transparent financing tools.** (Pages 87-90) The Strategic Plan again states that "...water required to support and revitalize the Delta will not be obtained by purchase of through market mechanisms." Please see RCRC's July 11, 2008 comments on this topic.

The Strategic Plan continues to state that access to state funding must be contingent on full compliance with all aspects of California resources laws and policies including "satisfying all applicable water quality and ecosystem regulations...". Please see RCRC's July 11, 2008 comments on this topic. Again, full compliance with every requirement is not a reasonable performance standard.

The Strategic Plan continues to state that there should be "a per-acre-foot fee levies on water diversions within the Delta watershed, and a separate fee on any water conveyed through or around the Delta." Please see RCRC's July 11, 2008 comments on this topic. RCRC believes that there must be clear linkages between financing sources and the benefits received.

**Strategy 18. Improve the compliance of the diversions and use of water with all applicable laws, regulations and constitutional principles.** (Pages 91-92) Strategy 18 states "... this Strategic Plan expects that water required to support and revitalize the Delta will not be purchased but will be provided within California's systems of water rights and the constitutional principles of reasonable use and public trust." Please see RCRC's July 11, 2008 comments on this topic.

In conclusion, RCRC appreciates the opportunity to provide comments to the Task Force on this Third Draft of the Strategic Plan. Please feel free to contact me at (916) 447-4806 or [kmannion@rcrcnet.org](mailto:kmannion@rcrcnet.org) if you have any questions.

Sincerely,



Kathy Mannion  
Director of Water and Power

- c: Governor Arnold Schwarzenegger
- Members, Delta Vision Blue Ribbon Task Force
- Mr. John Kirlin, Executive Director
- Members, Delta Vision Committee
- Director Lester Snow, Department of Water Resources
- Members, State Water Resources Control Board