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August 28, 2007

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

Dear Chair Isenberg:

SUBJECT: Delta Protection Commission, Local Electeds Panel, Response To Task Force Request for Input on Governance and Delta Conservancy

Thank you for inviting the local elected representatives (panel) of the Delta Protection Commission (DPC) to participate in a discussion with the Delta Vision Blue Ribbon Task Force (Task Force) on July 19, 2007. The dialogue was stimulating and invigorating while the issues to be addressed in the development of a vision for the Delta continue to be challenging.

During the discussion, you requested that the panel follow-up with input relative to governance and conservancy structures, both of which are anticipated to be topics of focus during the implementation phase of the Delta Visioning process.

While addressing the issue of governance without first having a vision would clearly be putting the cart before the horse, the panel recognizes the value of providing conceptual input to the Task Force for future consideration and discussion in public forums.

As you suggested, the following questions posed by J. Fred Silva in the Context Memorandum: *Learning from Others, Governance and Finance Lessons from Three Complex Ecosystem Restoration Programs (Iteration 1)* have been referenced by the panel as a guide in formulating thoughts on governance from a 30,000-foot view.

(1) Does the agency have the ability to directly implement its decisions?
(2) Are all of the agencies with powers and duties affecting the ecosystem problem involved in the decision-making process?
(3) Does the body have the ability to affect the activities of the constituent agencies?
(4) Is the decision-making process open and transparent?
(5) Do scientific and public voices have a forum?
(6) Have all of the agencies with operating responsibilities adopted the plan set out by the program?
(7) Is there a reliable system for financing restoration programs?
(8) Are the financial obligations shared among the affected agencies?

DELTA OVERSIGHT OF A STATE RESOURCE PROGRAM

The DPC, created pursuant to the Delta Protection Act to protect, preserve and enhance habitat, agricultural, and recreational resources of the Delta while taking into consideration flood control, provides a foundation for a governing body capable of addressing the key components noted in Mr. Silva's questions. However, it is acknowledged that the DPC created in 1992, while effective through its appeal authority and inclusion of its policies in Delta government general plans, has the potential to evolve into an enhanced structure that integrates components of two other successful and relative governing entities: the San Francisco Bay Conservation and Development Commission (SFBCDC) and the California Coastal Commission (CCC) (both of which are permitting authorities).

Similarly, the components of the DPC's *Land Use and Resource Management Plan for the Primary Zone of the Delta* (Management Plan), completed in 1995, has the potential to be enhanced through integration with components of SFBCDC's Management Plan as a template under the authorities provided by both the Delta Protection Act and the Coastal Zone Management Act.

Although a primary component of an effective integrated governance structure in the form of an enhanced DPC would continue to be the prevalent influence of Delta local government and stakeholder representation, effective authority, responsibility and accountability necessitate the establishment of mandates and time-sensitive benchmarks developed from a statewide perspective of public safety, water, habitat, agriculture, recreation and land resources. Such a structure would be more than purely a representation of science and water based interests in that it integrates resource based interests with local government interests to provide for checks and balances between levels of government, as well as diverse stakeholders, and in-Delta interests.

Just as the DPC provides the foundation for evolving into a Delta-centric governance structure of management for a resource program of statewide benefit, the Delta Visioning process provides a mechanism for establishing a framework of authority based on mandates and benchmarks influenced by diverse statewide perspectives.

The following provides "tools" rather than "recommendations" for further discussion relative to the feasibility of an effective statewide-driven authority, implemented by a locally-driven governance structure, worthy of consideration for establishing the Delta as a place of identity:

GEOGRAPHIC AREA

- Establishment of a legal Delta and tertiary Delta taking into consideration Delta Risk Management Strategy (DRMS) findings, Bay Delta Conservation Plan parameters, and Status and Trends Report findings.

- Overlay of a Council of Government (COG) boundary integrating Delta portions of the San Joaquin COG, Sacramento COG and Association of Bay Area Governments jurisdictional areas.

OVERSIGHT STRUCTURE

- DPC enhanced via integration with components of SFBCDC and CCC models, and considering Tahoe Regional Planning Agency as reference.

- Enhance DPC to include, in addition to existing DPC members from local and state government as well as Delta residents and stakeholders (see attachment), representation from the State Reclamation Board, State Water Board, State Water Contractors, CALTRANS, Suisun Marsh Resource Conservation District, and a non-governmental environmental organization that is Delta centric. As ex-officio members, include a representative from the Public Utilities Commission, Bureau of Reclamation, and the Corps of Engineers (also a voice for federal Fishery and Wildlife agencies).

- A Permit and Design Review Committee would provide support for effective implementation of mandates and streamlined permitting using San Francisco Bay LTMS DMMO and Tahoe Regional Planning Agency Design Review Committee as models.

- Addition of Conservancy, Land Trust, Flood Control, and Emergency Planning and Response Management as supporting divisions of the DPC as noted below under Independent Oversight.

INDEPENDENT OVERSIGHT

- A Delta Conservancy would independently acquire and hold habitat conservation easements working in concert with the Bay Delta Conservation Plan, including local conservation plans (HCP/NCCP), similar to the Coastal Conservancy relationship with the CCC, and the Wildlife Conservation Board relationship with Fish and Game, in support of the DPC.

- A Delta Land Trust would independently acquire and hold agricultural conservation easements working in concert with local county land trusts and the Department of Conservation in support of the DPC.

- The State Reclamation board would provide flood control authority and oversight as a permitting/leasing division of the DPC similar to the way the Sacramento Area Flood Control Agency functions together with the City/County of Sacramento.

- A Delta Urban Areas Security Initiative (UASI) would be formed as a supportive division of the DPC for coordinated emergency planning and response (technical and social aspects), following the San Francisco Bay Area model.

- Benchmark timeframes and reporting requirements would be established pursuant to statewide Delta Visioning process using Coastal Zone Management Act as a model and referencing the watershed initiatives of the CCC and the Department of Water Resources.

GUIDING AUTHORITY

- Mandates and Benchmarks established with relative time frames and reporting requirements pursuant to statewide Delta Visioning process.

- Integrated authority established under Delta Protection Act and Coastal Zone Management Act.

- Delta-related governance documents, including local government general plans.

- DPC Land Management Plan (updated based on outcome of related studies such as DRMS).

- SFBCDC Management Plan.

- Bay Delta Conservation Plan.

- Suisun Marsh Resource Management Plan (updated).

- Inclusion of Elements, developed through statewide Delta visioning, would be included in guiding documents similar to elements of a general plan.

POTENTIAL FUNDING SOURCES

- Permit/Lease fees.

- Title Transfer fees.

- Development fees (including statewide beneficial uses).

- Assessment Districts (pro-rated between urban and rural).

- Utility corridor assessment/pass thru fees (including statewide beneficial uses).

- Statewide user-benefit bonds.

- Incentive Programs: Economic Community Enhancement Programs; TDRs utilizing existing legislative provisions, etc.

- Consider Marine Redevelopment and Restoration Program as a model relative to Conservancy and Land Trust funding mechanism.

Members of the panel, Christopher Cabaldon, Arne Simonsen, Larry Ruhstaller, Mary Piepho, Mike Reagan and I, are available to further discuss the concepts provided herein at your request as is Linda Fiack, DPC Executive Director.

In conclusion, the DPC appreciates the Task Force's recognition of the significant role it has played in the challenging task of preserving, protecting and enhancing the unique and fragile natural resources of the Delta. As the Delta Visioning process continues to move forward the DPC looks forward to continued involvement, through the representation of five members on the Stakeholder Committee, and the opportunity to influence the outcome of the important charge of developing a vision for the Delta as a "Place".

Respectfully Submitted,

Mike McGowan, Chair
Delta Protection Commission
on behalf of Local Electeds Panel

Attachment: DPC Roster (2007)

cc: John Kirlin, Executive Director, DVP
Delta Vision Stakeholders Committee (via Leo Winternitz)
Members, DPC
Linda Fiack, Executive Director, DPC

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