Sacramento-San Joaquin Delta Conservancy
Mr. Campbell Ingram, Executive Director
Supervisor Mary Piepho, Chair
3500 Industrial Blvd., 2nd Floor
West Sacramento, CA 95691

September 8, 2011

Re: Charlton H. Bonham Letter of Resignation from Conservancy Board

Dear Chair Piepho and Campbell:

As you know, on August 26, 2011, Governor Brown appointed me to serve as the new Director of the California Department of Fish and Game. I am incredibly honored and humbled by this appointment and excited about the opportunity. You also know that I joined the Board of the Delta Conservancy in 2010, as a gubernatorial appointee. Given my new position at the Department, please accept this letter as my formal resignation from the Delta Conservancy Board.

I would like to thank both of you for your dedication to and passion for the mission of the Delta Conservancy. It is my personal feeling that the Delta Conservancy will continue to play an integral role working with local Delta communities and interested Californians to protect and enhance all of the values that make the Delta such a special place. It has been a great pleasure personally to have been involved in the start-up of this important venture. The Delta Conservancy Board – both the voting and advisory members – is a remarkable collection of individuals. I thank each board member for their contributions, and wish you, the Board, and the Conservancy staff all the best in your endeavors.

I look forward to working with you in the future.

Sincerely yours,

Charlton H. Bonham

cc:
Delta Conservancy Board and staff
Appointments Unit, Office of Governor Edmund G. Brown Jr.

Received 9/15/11

STATE OF CALIFORNIA – THE RESOURCES AGENCY

EDMUND G. BROWN Jr., *Governor*

DELTA PROTECTION COMMISSION
14215 RIVER ROAD, P.O. BOX 530
WALNUT GROVE, CA 95690
Phone (916) 776-2290 / FAX (916) 776-2293
Home Page: www.delta.ca.gov

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Cities of Contra Costa and Solano Counties

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Central Delta Reclamation Districts

North Delta Reclamation Districts

South Delta Reclamation Districts

Business, Transportation and Housing

Department of Food and Agriculture

Natural Resources Agency

State Lands Commission

September 16, 2011

Mr. Joe Grindstaff, Executive Officer
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, California 95814

Dear Mr. Grindstaff:

The purpose of this letter is to respond to the comments provided on the August 9, 2011 draft of the Delta Protection Commission's (Commission) Economic Sustainability Plan (ESP).

The Coequal Goals as the Basic State Goals for the Delta

Although the legislature codified the Coequal Goals of water reliability and protecting, restoring, and enhancing the Delta ecosystem as an evolving place, it did not define water reliability, nor did it define evolving place.

How "water reliability" and "evolving place" are defined can impact economic sustainability of the Delta. The Delta Plan (Plan) acknowledges multiple strategies or objectives referenced in the Delta Reform Act that must be addressed to improve water supply reliability. A more specific definition of water reliability allows for economic analysis or at least the presentation of factors relevant to economic sustainability. For example, if water reliability is defined as export levels prior to 1970, reduced by the effects of climate change and needs within the watershed, this might represent the average level of exports which could realistically be more reliable. This level had less of an impact on sensitive fish populations than the impact of exports from 1970 to 2010. The 1970 level of export is conceivably sustainable with through Delta conveyance and this would have a different impact on economic sustainability than that of expanded exports. Expanded exports utilizing isolated facilities, which has been proposed in the December 2010 draft BDCP, would have a footprint that takes farmland out of protection, off of local tax rolls and could alter channel flows threatening the salinity of the Delta. This conflicts with the Plan's proposed performance measure in Chapter 8, p. 200 that states progress toward improving the economic sustainability of Delta land uses and protection of the Delta's agricultural values should be measured by "total agricultural acreage and gross revenue in the Delta (that) will be maintained or increased in the future." Similar measures are proposed for recreational values and enhancing Delta culture.

The Delta Reform Act states that the coequal goals shall be achieved *in a manner that protects and enhances the unique cultural, recreational, natural resource and agricultural values of the Delta as an evolving place*. Evolving is defined as "developing, progressing, advancing, or passing through a process of evolution" (Websters Dictionary). Evolving can be adapting to policy induced forces of change or adapting to natural forces of change. There can be significant impacts from both sources on economic sustainability. Policy induced changes can be so rapid that they prevent or impede adaptation. Especially where changes reduce farmland, impact water quality and water availability. Natural forces generally occur overtime, allowing gradual adaption to change. It is acknowledged that there can also be sudden natural forces that can cause significant change.

When you compare the Coequal Goals with the object of Congress in granting swamp lands to the states (1850 Swamp and Overflow Land Act)..."population and settlement, thereby opening new fields for industry and increasing the general prosperity" (9 U.S. Stats. At Large, p. 519)...and the obligation of the State in accepting the grant..."to carry out in good faith the objects for which it was made" (45 Cal. 344,*359), it seems that the coequal goals should be consistent with *increasing the general prosperity* of the Delta. The reflooding of Swamp and Overflowed Lands, deprivation and degradation of the water supply to such lands and other acts of the State detrimental to the productivity and prosperity of such lands is clearly inconsistent with the State's obligation to, in good faith, carry out the purpose for which the lands were granted to the State.

Additionally, Water Code Sections 12200 - 12205 are particularly specific as to the requirements to provide "adequate water supply in the Delta sufficient to maintain and expand agriculture, industry, urban and recreational development". An evolving Delta consistent with Water Code Section 12201 is one which maintains and expands agriculture, industry, urban and recreational development. Delta as an evolving place is to be positive not negative. The Sacramento-San Joaquin Delta Reform Act of 2009 cannot be properly interpreted to allow harm to the future prosperity of the Delta.

The Economic Sustainability Plan Must be Consistent with the Coequal Goals

The ESP under development by the Commission is not inconsistent with the coequal goals. It is evaluating the economy of the Delta, its output, its contribution to the regional and State's economies from the perspective of both Water Code Section 85024 and Water Code Section 85020(b), which states that it is the *policy* of the state to *protect* and *enhance* the unique cultural, recreational, and agriculture values of the California Delta as an evolving place (emphasis added). The Plan should be guided by the ESP that defines the economy, the maintaining of which is consistent with the Plan's Chapter 8. The ESP identifies what actions can impact the Delta economy by taking away from maintaining or increasing the gross revenue or economic output of the Delta.

Comments on Draft Three (August 9) of the Economic Sustainability Plan

1. The Draft ESP is not limited to the Primary Zone. None of the three key chapters for economic analysis, agriculture, recreation and infrastructure, are limited to the Primary Zone. Some confusion arose on this issue due to some of the language in the introductory chapter of the first draft, and it has been clarified in recent drafts as shown on pages 9-11 of the August 9 draft ESP.

   Comments that barriers to economic development in the Primary Zone are more reasonably to overcome when the entire legal Delta is taken into account, fail to recognize that the barriers referred to are those that impeded development and sustainability of legacy communities. The Delta Reform Act specifically called for focus on the economic sustainability of legacy communities. Some Commissioners have argued that legacy communities should be removed from the Primary Zone and made part of the Secondary Zone to allow local government more latitude in land use and development planning. The ESP draws attention to the fact that regulations from a variety of sources, including local government, state government, and federal agencies, create challenges for investment that maintains or enhances legacy communities.

2. The question of the ESP being incompatible with the achievement of the coequal goals is related to the discussion above, "The Economic Sustainability Plan Must Be Consistent with the Coequal Goals". In Chapter 8 of the Plan, the proposed performance measure to access Delta economic sustainability, Delta land uses and protection of the Delta's agricultural values is "total agricultural acreage and gross revenue in the Delta being maintained or increased in the future". The ESP not only describes the economy to be maintained, it also describes what can affect agricultural acreage and gross revenue. This should assist the Plan in avoiding conflicts with the coequal goals and the objectives of Water Code Section 85020(b). Some have suggested that agriculture displaced in the Primary Zone can be made up by increased agricultural value in the Secondary Zone. Agriculture in the Secondary Zone is substantially developed and losing agricultural acreage and agricultural revenue in the Primary Zone will not necessarily be made up in the Secondary Zone.

   In general, the comment regarding inconsistency with the coequal goals does not reflect the actual content of the ESP, but the way it has been mischaracterized by others. The final concluding paragraph of the draft ESP and its Executive Summary is as follows: "In conclusion, the recommended strategies in the ESP show that it is possible to sustain and enhance the Delta economy while making

significant progress towards the coequal goals of increased water supply reliability and ecosystem restoration." Currently, there are ten conveyance options and twenty ecosystem restoration options studied in various plans. The draft ESP states that there is one conveyance option and two ecosystem restoration proposals that are inconsistent with economic sustainability while recommending a number of other strategies even though they have economic costs in the Delta. In the next draft, it will be made clearer that the ESP is consistent with the coequal goals. Sustaining and enhancing the Delta does place some limits on actions to achieve the coequal goals, just as the coequal goals place limits on the economic sustainability of the Delta.

3. In the next draft where inconsistencies have been identified, suggestions to rectify those inconsistencies will be offered.

   Comments, that "the draft ESP appears to conclude that the future vitality of the Delta must remain generally the same as it is today – a snapshot in time, resistant to change and unable to adapt", seem inconsistent with the Plan's objective to measure progress towards improving the economic sustainability of the Delta and the Delta's recreational values. That measurement defined in Chapter 8 of the Plan is maintaining or increasing agricultural acreage and gross revenue in the future, that gross revenues from recreation activities will be maintained or increased, and enhancing Delta culture will be achieved by increasing ecotourism and agri-tourism opportunities. The ESP defines the economic output of the Delta from agriculture, tourism and recreation, and discusses how to maintain or enhance the output from those sectors of the Delta economy.

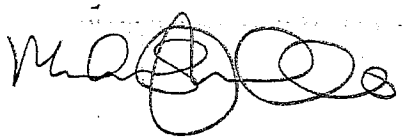
   Proposals that add to the regulatory restrictions on Delta land use and investment will be what are locking the Delta in time and making it unable to adapt. The conundrum is how to fix the Delta without destroying the Delta. If the goal is to encourage the Delta economy to diversify from its current agricultural base then new investment to support expanded recreation and tourism and other industries must be encouraged, not impeded.

   The August 9, 2011 draft ESP does discuss changes in Delta agriculture and the shift in agriculture to higher value food and wine grape crops, the importance of the Delta as a food source for the dairy and livestock industry, prospective growth (and limitations thereto) in recreation, agri-tourism and ecotourism, as well as achieving National Heritage Area designation to assist in branding of the Delta. Also discussed in the draft ESP, there are fundamental limits in the infrastructure to support large growth in recreation and ecotourism, furthermore, the type of recreation and ecotourism in the Delta does not provide the high return usually associated with destination based recreational activities.

As was discussed, the ESP team welcomes the opportuinity for a peer-review; I would suggest that it not wait for the final draft if the goal is to have an ESP that is both a representation of the Delta economy and useful to the Plan.

Thank you for your comments and the opportuinity to respond, I look forward to discussing this issue further.

Sincerely,



Michael J. Machado
Executive Director

cc: Delta Protection Commission, Members
Delta Stewardship Council, Members
Delta Conservancy, Members
Department of Water Resources, Mark Cowin
California Natural Resources Agency, Secretary Laird
California Natural Resources Agency, Deputy Secretary Meral