

AGENDA ITEM 10: **Report on Land Use and Resource Management Plan Update**

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Requested Action: **Receive report**

SUMMARY

The update of the Commission’s Land Use and Resource Management Plan (LURMP) is underway. Since last fall, Commission staff has been working with John Hart, a writer under contract with the Commission, on a series of background reports. The reports describe changes in the Delta since the original background reports (prepared in 1995 for the first LURMP) and current conditions with regard to land use, agriculture, habitat, Delta levees and infrastructure, legacy communities, and recreation. We expect to release the first several reports for the Commission’s consideration prior to its September 2016 meeting. In addition, the staff has identified several key policy issues that we believe the Commission should address in the update of the LURMP. This report is not a complete description of the issues to be addressed in the LURMP. Instead, it describes some key issues so that the Commission may provide input to staff as they continue to work on the update.

Background

Public Resources Code (PRC) Section 29760 requires the Delta Protection Commission (the Commission) to adopt a long-term resource management plan (the Land Use and Resource Management Plan, or LURMP) for land uses within the primary zone of the Delta. The LURMP must meet a wide range of statutory requirements, from protecting and preserving cultural values, fisheries, habitat, and agriculture to promoting strategies for managing levee systems and coordinating marine patrol and boating safety. Once adopted by the Commission, local governments within the Delta must amend their general plans to be consistent with the LURMP for land within the primary zone (see the complete text of Section 29760 at the end of this document).

The Commission’s Statutory Authority:

The Commission’s land use jurisdiction extends to local agency actions on “development” in the Primary Zone (see PRC Section 29723 at the end of this document). More specifically, the Delta Protection Act calls upon local agencies to internalize and implement the LURMP by adopting amendments to their General Plans so that those Plans are consistent with the LURMP for land within the Primary Zone (PRC §29763). Where local agencies have not adopted these amendments to their General Plan, the agencies must make a series of specific findings based on their record regarding the impacts of the proposed development on the Delta (PRC §29765).¹ The Commission’s authority does not include matters within the jurisdiction of any other State agency (PRC §29716).

First adopted in 1995, the Commission last updated the LURMP in February 2010. The Commission initiated this update of the LURMP in light of actions that have occurred since the 2010 update, evolving

¹ Only Sacramento and Yolo counties have complied with this requirement after the 2010 LURMP update.

policy concerns related to Delta land use, and a desire to update the LURMP on a periodic basis. In particular, in 2009 the Legislature passed both amendments to the Delta Protection Act and the Delta Reform Act (Statutes of 2009, 7th Ex. Session, Chapter 5), which took effect in February 2010. The Act declares that State policy toward the Delta must serve two “coequal goals:” providing a more reliable water supply; and protecting, restoring, and enhancing the Delta ecosystem. These goals must 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” (PRC §29702). The last update of the LURMP occurred after the adoption of the 2009 Delta Reform Act, but did not take into account the subsequent adoption of the Delta Stewardship Council’s Delta Plan.

The Delta Reform Act created the Delta Stewardship Council and charged it with developing and implementing a Delta Plan to further the coequal goals. In 2013, the Council adopted the Delta Plan, containing 14 policies and 73 recommendations, which apply to “covered actions” within the Delta. California Water Code Section 85057.5 defines “covered actions” essentially as state agency plans, programs, and activities, with certain exceptions. In addition, the Delta Reform Act identified the Commission as the “appropriate agency to identify and provide recommendations to the Delta Stewardship Council on methods of *preserving the Delta as an evolving place* as the Delta Stewardship Council develops and implements the Delta Plan” (PRC § 29703.5(a), emphasis added). The Delta Reform Act also authorized the Commission to review and comment on “any significant project or proposed project within the scope of the Delta Plan, including but not limited to actions by state and federal agencies, that *may affect the unique cultural, recreational, and agricultural values within the primary and secondary zones.*” (PRC §29773(a), emphasis added). Relevant Delta Plan policies and recommendations are listed at the end of this document.

As the Commission is aware, the Sacramento Superior Court invalidated the Delta Plan in June 2016 and the Council is contemplating its next steps. Despite the current uncertainty surrounding the legal status of the Delta Plan, the Commission’s update of its LURMP may be a covered action, subject to the consistency requirements of WC §85225. As such, this update of the LURMP should consider the relevant *policies* of the Delta Plan, including policies regarding ecosystem restoration, urban development restrictions, flood protection, and preserving the Delta as an evolving place. As a state agency with shared responsibility for developing the Delta Plan, the Commission’s LURMP could also reflect the *recommendations* of the Delta Plan. In particular, Recommendations 5 through 19 in Chapter 5 concerning “Delta as Place” (many of which originated in the Commission’s 2012 Economic Sustainability Plan) may be appropriate guidelines for updating the LURMP.

CURRENT ISSUES

The Commission’s staff monitors state, federal, and local agency plans and activities in the Delta and submits comments on behalf of the Commission. Staff also interacts regularly with planning staff from the Delta cities and counties. This ongoing monitoring shows several recurring issues for which the existing LURMP lacks sufficient specificity to provide guidance in comment letters. This section describes these issues. Staff requests that the Commission consider these issues and direct the staff as to their preferred direction for developing new or revised policies in the LURMP.

Jurisdictional Development in Primary Zone

Although the LURMP policies and the Delta counties' General Plans have limited the potential for development within the primary zone, there are several recurring land use development issues that could potentially affect the long-term sustainability of agriculture in the Delta. The Delta counties are addressing most of these issues through general plan and/or zoning ordinance amendments. Staff recommends that the Commission consider adopting policies that include performance criteria for local agencies in addressing the following:

Subdivision of Agricultural Parcels: Occasionally, staff reviews proposals to subdivide agricultural lands, often with the intention of creating rural residential parcels. The LURMP does not include specific policies on what constitutes a “viable” agricultural parcel. Viability varies with agricultural practices and trends in the different regions of the Delta (e.g., large acreage for field crops in San Joaquin County vs. small acreage for specialized high-value crops in eastern Contra Costa County). The Commission could develop policies requiring County General Plan designations and Zoning Ordinances to develop criteria to protect agricultural uses on Primary Zone lands. Such policies might include:

- requiring local agencies to adopt general plan and zoning amendments to establish minimum agricultural parcel sizes in the Delta based on regional agricultural trends and crops;
- requiring applicants to demonstrate the viability of agriculture on the parcel;
- requiring mitigation for the loss of agricultural lands through the acquisition of conservation easements;
- requiring protective buffer zones between secondary zone development and primary zone agriculture, as well as between the legal Delta and the surrounding non-Delta lands.

Event Centers and Agri-tourism: Staff has observed more frequent proposals to establish event centers in the Delta located on farm and ranch operations. Agri-tourism is on the rise, with growing numbers of you-pick farms, harvest festivals, tasting rooms, and activities associated with wineries and breweries. Yolo County is considering revisions to its zoning ordinance concerning special events facilities and bed-and-breakfast establishments. Sacramento County provides development standards for agricultural stands and markets and wineries and craft breweries, including limiting the maximum number of event attendees based on total parcel size. Larger events may be allowed subject to a conditional use permit.

While allowing for income diversification for existing farms and ranches, event centers and increasing visitation to rural areas can create conflicts with local residents and agricultural operations by creating high traffic volume on narrow roads and noise impacts when events occur after normal work hours. The Commission could develop policies requiring local agencies to adopt General Plan policies and Zoning Ordinances to manage the development of event centers and agri-tourism to avoid conflicts with agriculture.

Renewable Energy and Telecommunications Infrastructure: The Commission’s Vision 2030 strategic plan advocates for necessary infrastructure improvements. Wireless and broadband telecommunications facilities are important for improving connectivity throughout the region, but should not detract from the rural aesthetics of the Primary Zone.

In addition, the Delta offers large expanses of rural open areas which could be attractive to developers of renewable energy infrastructure, especially solar and wind. These facilities could convert agricultural lands to other uses and impair the scenic quality of the Delta; wind turbines also have the potential to harm raptors and other bird species.

The Commission could adopt policies that direct new energy infrastructure away from agricultural lands in the Delta.

Jurisdiction within Unincorporated Delta Towns

The Commission’s interpretation of the Delta Protection Act with respect to its jurisdiction over development within, or adjacent to, the unincorporated Delta towns has not always been consistent over time. The LURMP update provides an opportunity to clarify and formalize the Commission’s position, likely through a formal rulemaking, while ensuring that the LURMP policies appropriately reflect the Commission’s jurisdiction.

In the event the Commission determines that it has jurisdiction over development within, or adjacent to, the unincorporated Delta towns, there is a need for policies clarifying the Commission’s land use authority in these towns. Current LURMP policies do not provide much guidance on what development is appropriate, with the exception of Land Use P-4, which calls for new non-agriculturally oriented non-farmworker residential development to be directed into these towns. Staff recommends that the Commission consider adopting policies that address the following issues:

- What limitations, if any, should apply to building and infrastructure improvements/reconstruction (aside from restrictions already imposed by flood protection laws and regulations, including the National Flood Insurance Program requirements)?
- What types of development should be allowed in unincorporated Delta towns? Should counties be allowed to change land use designations in unincorporated Delta towns (from industrial to commercial, for example; or from single family to multi-family residential)?

Historic and Cultural Values

One of the requirements of the LURMP is to “Protect and preserve the cultural values and economic vitality that reflect the history, natural heritage, and human resources of the Delta” (PRC §29760(b)(1)). Although the current LURMP does not address these aspects of the Delta, staff are engaged in several activities related to cultural and historic resources—including the Delta Narratives, Delta Heritage Area Initiative, and the Delta Community Action Plans. The Commission could adopt new policies regarding the preservation, restoration, rehabilitation, and adaptive reuse of Delta heritage resources.

Recreation

As recreational activity in the Delta increases, there are a number of policy issues that the Commission could address.

- **Increasing use of Delta roads by cyclists:** Growing interest in cycling in the Delta is creating safety concerns because of the narrow roads, which frequently lack shoulders. The Commission has jurisdiction over County Road improvements in the Primary Zone. However, it has none over changes to State roads or bridges. The Commission could develop policies for advocating for road improvements, including bike lane striping, shoulder expansions where feasible, and partnering with local organizations to promote safe cycling practices and to encourage cyclists to use routes that avoid the more dangerous roadways.
- **Great California Delta Trail segments:** Determining a Great California Delta Trail alignment through the core of the agricultural area in the Delta presents many challenges. Increasing demand for recreation and new forms of recreation create opportunities for the Commission to take a more active role in promoting recreation while protecting landowners' interests and addressing their concerns about trespass, vandalism, and liability. The Commission could adopt policies about appropriate locations for Delta Trail segments, including criteria for segment selection, partnering with local recreation agencies, and taking positions on issues of concern to landowners.
- **County and State road improvements:** Three CalTrans Districts – Districts 3, 4, and 10 – cover the Delta. Districts take the lead in proposing projects for road improvements, planning, and partnering with local agencies to implement approved projects. The Commission could adopt policies regarding transportation planning at the State and County levels. This could include developing a set of Delta road improvement priorities to be adopted in Regional Transportation Plans, criteria for supporting the inclusion of bike paths in road projects, and general support for speed limit reductions and adding pedestrian pathways in the Legacy Communities.

Non-jurisdictional Activities in Primary or Secondary Zone

Recent non-jurisdictional activities that have come up for Commission review include California WaterFix (and its predecessor BDCP), the Decker Island Levee Repair Demonstration Project, SB 5 (urban flood protection) implementation plans, and a variety of other regional or local plans. Under PRC §29773(a), the Commission has the authority to make recommendations to the Delta Stewardship Council on any project within the scope of the Delta Plan (including State and federal agency actions) that may affect the unique cultural, recreational, and agricultural values within the primary and secondary zones. Staff believes that the Commission should address such issues in the LURMP.

Issues that the Commission could address through this authority include:

- **Secondary Zone Development and Urban Flood Protection Requirements:** SB 5 requirements took effect on July 1, 2016, requiring 200-year flood protection for urban areas where flood inundation could be up to 3 feet. Under SB 5, it will be more difficult to build new homes in the low-lying, western reaches of Stockton, most of which is in the Secondary Zone, or other low-lying urbanizing areas in the Delta. This may further restrict development potential within the

Secondary Zone. Development in the Secondary Zone that does proceed, given the SB 5 restrictions, and that moves toward the Primary Zone (e.g., eastern Contra Costa County), could have cumulative impacts on agriculture in the Primary Zone. The Commission could consider requiring local agencies to create a buffer zone between development in the Secondary Zone to protect agriculture in the Primary Zone.

- **Water supply infrastructure:** In 2014 and 2015, the Commission commented on the BDCP and California WaterFix. The current LURMP lacks policies to address such a large scale infrastructure project and its potential effects on the unique values of the Delta. The Commission may wish to develop policies on water supply facilities and associated mitigation criteria for addressing the loss of agricultural lands, economic impacts, and other impacts to “Delta as Place”. These policies could be used for commenting on future projects under the PRC§29773(a) authority. Policies could address:
 - Short- and long-term harm to the unique values of the Delta;
 - Construction impacts, including the destruction of homes and significant historical buildings
 - Traffic congestion with attendant impacts on local businesses; and
 - Interference with access to well-used informal recreation sites, such as bank fishing
- **Delta Ecosystem Conservation:** The California Department of Fish and Wildlife (DFW) is developing a Delta Ecosystem Conservation Framework. The document is intended to be a high-level, 25-year conservation framework for the Delta, Yolo Bypass and Suisun Marsh that is supported by the community. DFW states that the Framework will address agricultural sustainability, recreation, and flood protection, and is intended to inform the amendment of the ecosystem elements of the Delta Plan. The updated LURMP should acknowledge the Framework and specify how the Commission will work with the implementing agencies to minimize the detrimental impacts of ecological restoration on agricultural lands or operations.
- **Levee Improvements:** Two studies on Delta levee improvements are underway. The Council’s Delta Levee Investment Strategy will result in Delta Plan policies addressing the State’s priorities for levee improvements, based on the State’s interests in the Delta (as articulated in the Delta Levee Investment Principles adopted by the Council in 2015). The Commission’s feasibility study for financing Delta levees will identify the most promising financial mechanisms that could be used to implement a beneficiary-pays based approach to paying for improvements. Both studies will produce information that could inform the Commission’s policies on levees in the LURMP.

Delta Plan Policies and Recommendations

The following Delta Plan policies and recommendations should be considered as the Commission revises its LURMP.

G P1 (23 CCR Section § 5002.) Detailed Findings to Establish Consistency with the Delta Plan.

(a) This policy specifies what must be addressed in a certification of consistency filed by a State or local public agency with regard to a covered action. This policy only applies after a “proposed action” has been determined by a State or local public agency to be a covered action because it is covered by one or more of the regulatory policies contained in Article 3. Inconsistency with this policy may be the basis for an appeal.

(b) Certifications of consistency must include detailed findings that address each of the following requirements:

(1) Covered actions, in order to be consistent with the Delta Plan, must be consistent with this regulatory policy and with each of the regulatory policies contained in Article 3 implicated by the covered action. The Delta Stewardship Council acknowledges that in some cases, based upon the nature of the covered action, full consistency with all relevant regulatory policies may not be feasible. In those cases, the agency that files the certification of consistency may nevertheless determine that the covered action is consistent with the Delta Plan because, on whole, that action is consistent with the coequal goals. That determination must include a clear identification of areas where consistency with relevant regulatory policies is not feasible, an explanation of the reasons why it is not feasible, and an explanation of how the covered action nevertheless, on whole, is consistent with the coequal goals. That determination is subject to review by the Delta Stewardship Council on appeal;

(2) Covered actions not exempt from CEQA must include applicable feasible mitigation measures identified in the Delta Plan's Program Environmental Impact Report (unless the measure(s) are within the exclusive jurisdiction of an agency other than the agency that files the certification of consistency), or substitute mitigation measures that the agency that files the certification of consistency finds are equally or more effective;

(3) As relevant to the purpose and nature of the project, all covered actions must document use of best available science;

(4) Ecosystem restoration and water management covered actions must include adequate provisions, appropriate to the scope of the covered action, to assure continued implementation of adaptive management. This requirement shall be satisfied through both of the following:

(A) An adaptive management plan that describes the approach to be taken consistent with the adaptive management framework in Appendix 1B; and

(B) Documentation of access to adequate resources and delineated authority by the entity responsible for the implementation of the proposed adaptive management process.

(c) A conservation measure proposed to be implemented pursuant to a natural community conservation plan or a habitat conservation plan that was:

(1) Developed by a local government in the Delta; and

(2) Approved and permitted by the California Department of Fish and Wildlife prior to May 16, 2013 is deemed to be consistent with sections 5005 through 5009 of this Chapter if the certification of consistency filed with regard to the conservation measure includes a statement confirming the nature of the conservation measure from the California Department of Fish and Wildlife.

ER P2 (CRC § 5006). Restore Habitats at Appropriate Elevations.

(a) Habitat restoration must be carried out consistent with Appendix 3, which is Section II of the Draft Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions (California Department of Fish and Wildlife 2011). The elevation map attached as Appendix 4 should be used as a guide for determining appropriate habitat restoration actions based on an area's elevation. If a proposed habitat restoration action is not consistent with Appendix 4, the proposal shall provide rationale for the deviation based on best available science.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that includes habitat restoration.

ER P3 (CRC§ 5007). Protect Opportunities to Restore Habitat.

(a) Within the priority habitat restoration areas depicted in Appendix 5, significant adverse impacts to the opportunity to restore habitat as described in section 5006, must be avoided or mitigated.

(b) Impacts referenced in subsection (a) will be deemed to be avoided or mitigated if the project is designed and implemented so that it will not preclude or otherwise interfere with the ability to restore habitat as described in section 5006.

(c) Impacts referenced in subsection (a) shall be mitigated to a point where the impacts have no significant effect on the opportunity to restore habitat as described in section 5006. Mitigation shall be determined, in consultation with the California Department of Fish and Wildlife, considering the size of the area impacted by the covered action and the type and value of habitat that could be restored on that area, taking into account existing and proposed restoration plans, landscape attributes, the elevation map shown in Appendix 4, and other relevant information about habitat restoration opportunities of the area.

(d) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions in the priority habitat restoration areas depicted in Appendix 5. It does not cover proposed actions outside those areas.

ER P4 (CRC § 5008). Expand Floodplains and Riparian Habitats in Levee Projects.

(a) Levee projects must evaluate and where feasible incorporate alternatives, including the use of setback levees, to increase floodplains and riparian habitats. Evaluation of setback levees in the Delta shall be required only in the following areas (shown in Appendix 8): (1) The Sacramento River between Freeport and Walnut Grove, the San Joaquin River from the Delta boundary to Mossdale, Paradise Cut, Steamboat Slough, Sutter Slough; and the North and South Forks of the Mokelumne River, and (2) Urban levee improvement projects in the cities of West Sacramento and Sacramento.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action to construct new levees or substantially rehabilitate or reconstruct existing levees.

ER P5 (CRC§ 5009). Avoid Introductions of and Habitat Improvements for Invasive Nonnative Species.

(a) The potential for new introductions of or improved habitat conditions for nonnative invasive species, striped bass, or bass must be fully considered and avoided or mitigated in a way that appropriately protects the ecosystem.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that has the reasonable probability of introducing or improving habitat conditions for nonnative invasive species.

DP P1 (CRC§ 5010). Locate New Urban Development Wisely.

(a) New residential, commercial, and industrial development must be limited to the following areas, as shown in Appendix 6 and Appendix 7:

(1) Areas that city or county general plans, as of May 16, 2013, designate for residential, commercial, and industrial development in cities or their spheres of influence;

(2) Areas within Contra Costa County's 2006 voter-approved urban limit line, except no new residential, commercial, and industrial development may occur on Bethel Island unless it is consistent with the Contra Costa County general plan effective as of May 16, 2013;

(3) Areas within the Mountain House General Plan Community Boundary in San Joaquin County; or

(4) The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove.

(b) Notwithstanding subsection (a), new residential, commercial, and industrial development is permitted outside the areas described in subsection (a) if it is consistent with the land uses designated in county general plans as of May 16, 2013, and is otherwise consistent with this Chapter.

(c) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions that involve new residential, commercial, and industrial development that is not located within the areas described in subsection (a). In addition, this policy covers any such

action on Bethel Island that is inconsistent with the Contra Costa County general plan effective as of May 16, 2013. This policy does not cover commercial recreational visitor-serving uses or facilities for processing of local crops or that provide essential services to local farms, which are otherwise consistent with this Chapter.

(d) This policy is not intended in any way to alter the concurrent authority of the Delta Protection Commission to separately regulate development in the Delta's Primary Zone.

DP P2 (CRC§ 5011). Respect Local Land Use when Siting Water or Flood Facilities or Restoring Habitats.

(a) Water management facilities, ecosystem restoration, and flood management infrastructure must be sited to avoid or reduce conflicts with existing uses or those uses described or depicted in city and county general plans for their jurisdictions or spheres of influence when feasible, considering comments from local agencies and the Delta Protection Commission. Plans for ecosystem restoration must consider sites on existing public lands, when feasible and consistent with a project's purpose, before privately owned sites are purchased. Measures to mitigate conflicts with adjacent uses may include, but are not limited to, buffers to prevent adverse effects on adjacent farmland.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers proposed actions that involve the siting of water management facilities, ecosystem restoration, and flood management infrastructure.

RR P2 (CRC§ 5013). Require Flood Protection for Residential Development in Rural Areas.

(a) New residential development of five or more parcels shall be protected through floodproofing to a level 12 inches above the 100-year base flood elevation, plus sufficient additional elevation to protect against a 55-inch rise in sea level at the Golden Gate, unless the development is located within:

(1) Areas that city or county general plans, as of May 16, 2013, designate for development in cities or their spheres of influence;

(2) Areas within Contra Costa County's 2006 voter-approved urban limit line, except Bethel Island;

(3) Areas within the Mountain House General Plan Community Boundary in San Joaquin County; or

(4) The unincorporated Delta towns of Clarksburg, Courtland, Hood, Locke, Ryde, and Walnut Grove, as shown in Appendix 7.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that involves new residential development of five or more parcels that is not located within the areas described in subsection (a).

RR P3 (CRC§ 5014). Protect Floodways.

(a) No encroachment shall be allowed or constructed in a floodway, unless it can be demonstrated by appropriate analysis that the encroachment will not unduly impede the free flow of water in the floodway or jeopardize public safety.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that would encroach in a floodway that is not either a designated floodway or regulated stream.

RR P4 (CRC§ 5015). Floodplain Protection.

(a) No encroachment shall be allowed or constructed in any of the following floodplains unless it can be demonstrated by appropriate analysis that the encroachment will not have a significant adverse impact on floodplain values and functions:

(1) The Yolo Bypass within the Delta;

(2) The Cosumnes River-Mokelumne River Confluence, as defined by the North Delta Flood Control and Ecosystem Restoration Project (McCormack-Williamson), or as modified in the future by the California Department of Water Resources or the U.S. Army Corps of Engineers (California Department of Water Resources 2010); and

(3) The Lower San Joaquin River Floodplain Bypass area, located on the Lower San Joaquin River upstream of Stockton immediately southwest of Paradise Cut on lands both upstream and downstream of the Interstate 5 crossing. This area is described in the Lower San Joaquin River Floodplain Bypass Proposal, submitted to the California Department of Water Resources by the partnership of the South Delta Water Agency, the River Islands Development Company, Reclamation District 2062, San Joaquin Resource Conservation District, American Rivers, the American Lands Conservancy, and the Natural Resources Defense Council, March 2011. This area may be modified in the future through the completion of this project.

(b) For purposes of Water Code section 85057.5(a)(3) and section 5001(j)(1)(E) of this Chapter, this policy covers a proposed action that would encroach in any of the floodplain areas described in subsection (a).

(c) This policy is not intended to exempt any activities in any of the areas described in subsection (a) from applicable regulations and requirements of the Central Valley Flood Protection Board.

Commission Statutory Authority under the Public Resources Code

Land Use and Resource Management Plan: Section 29760. (a) Not later than October 1, 1994, the commission shall prepare and adopt, by a majority vote of the membership of the commission, and thereafter review and maintain, a comprehensive long-term resource management plan for land uses within the primary zone of the delta. The resource management plan shall consist of the map of the primary zone and text or texts setting forth a description of the needs and goals for the delta and a statement of the policies, standards, and elements of the resource management plan.

(b) The resource management plan shall meet the following requirements:

(1) Protect and preserve the cultural values and economic vitality that reflect the history, natural heritage, and human resources of the delta.

(2) Conserve and protect the quality of renewable resources.

(3) Preserve and protect agricultural viability.

(4) Restore, improve, and manage levee systems by promoting strategies, including, but not limited to, methods and procedures which advance the adoption and implementation of coordinated and uniform standards among governmental agencies for the maintenance, repair, and construction of both public and private levees.

(5) Preserve and protect delta dependent fisheries and their habitat.

(6) Preserve and protect riparian and wetlands habitat, and promote and encourage a net increase in both the acreage and values of those resources on public lands and through voluntary cooperative arrangements with private property owners.

(7) Preserve and protect the water quality of the delta, both for instream purposes and for human use and consumption.

(8) Preserve and protect open-space and outdoor recreational opportunities.

(9) Preserve and protect private property interests from trespassing and vandalism.

(10) Preserve and protect opportunities for controlled public access and use of public lands and waterways consistent with the protection of natural resources and private property interests.

(11) Preserve, protect, and maintain navigation.

(12) Protect the delta from any development that results in any significant loss of habitat or agricultural land.

(13) Promote strategies for the funding, acquisition, and maintenance of voluntary cooperative arrangements, such as conservation easements, between property owners and conservation groups that protect wildlife habitat and agricultural land, while not impairing the integrity of levees.

(14) Permit water reservoir and habitat development that is compatible with other uses.

(c) The resource management plan shall not supersede the authority of local governments over areas within the secondary zone.

(d) To facilitate, in part, the requirements specified in paragraphs (8), (9), (10), and (11) of subdivision (b), the commission shall include in the resource management plan, in consultation with all law enforcement agencies having jurisdiction in the delta, a strategy for the implementation of a coordinated marine patrol system throughout the delta that will improve law enforcement and coordinate the use of resources by all jurisdictions to ensure an adequate level of public safety. The strategic plan shall identify resources to implement that coordination. The commission shall have no authority to abrogate the existing authority of any law enforcement agency.

(e) To the extent that any of the requirements specified in this section are in conflict, nothing in this division shall deny the right of the landowner to continue the agricultural use of the land.

“Development:” PRC Section 29723(a) and (b)

“Development” means on, in, over, or under land or water, the placement or erection of any solid material or structure; discharge of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivisions pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), and any other division of land including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational or fish and wildlife uses or preservation; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes.

(b) “Development” does not include any of the following:

(1) All farming and ranching activities, as specified in subdivision (e) of Section 3482.5 of the Civil Code.

(2) The maintenance, including the reconstruction of damaged parts, of structures, such as marinas, dikes, dams, levees, riprap (consistent with Chapter 1.5 (commencing with Section 12306) of Part 4.8 of Division 6 of the Water Code), breakwater, causeways, bridges, ferries, bridge abutments, docks, berths, and boat sheds. “Maintenance” includes, for this purpose, the rehabilitation and reconstruction of levees to meet applicable standards of the United States Army Corps of Engineers or the Department of Water Resources.

(3) The construction, repair, or maintenance of farm dwellings, buildings, stock ponds, irrigation or drainage ditches, water wells, or siphons, including those structures and uses permitted under the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code).

- (4) The construction or maintenance of farm roads, or temporary roads for moving farm equipment.
- (5) The dredging or discharging of dredged materials, including maintenance dredging or removal, as engaged in by any marina, port, or reclamation district, in conjunction with the normal scope of their customary operations, consistent with existing federal, state, and local laws.
- (6) The replacement or repair of pilings in marinas, ports, and diversion facilities.
- (7) Projects within port districts, including, but not limited to, projects for the movement, grading, and removal of bulk materials for the purpose of activities related to maritime commerce and navigation.
- (8) The planning, approval, construction, operation, maintenance, reconstruction, alteration, or removal by a state agency or local agency of any water supply facilities or mitigation or enhancement activities undertaken in connection therewith.
- (9) Construction, reconstruction, demolition, and land divisions within existing zoning entitlements, and development within, or adjacent to, the unincorporated towns of the delta, as permitted in the Delta Area Community Plan of Sacramento County and the general plan of Yolo County, authorized prior to January 1, 1992.
- (10) Exploration or extraction of gas and hydrocarbons.
- (11) The planning, approval, construction, repair, replacement, alteration, reconstruction, operation, maintenance, or removal of oxidation and water treatment facilities owned by the City of Stockton or the City of Lodi, or facilities owned by any local agency within or adjacent to the unincorporated towns of the delta consistent with the general plan of the County of Sacramento or the County of Yolo, as the case may be.