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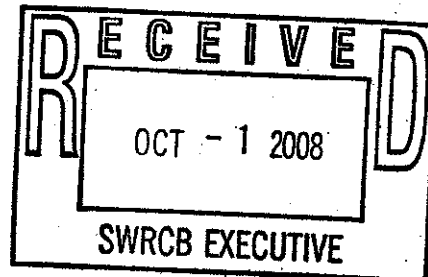
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(1929-2002)

October 1, 2008

Jeanine Townsend, Clerk to the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-2000

**Re: Review Of The 2006 Bay-Delta Plan**

Dear Ms. Townsend:



On August 29, 2008, the State Water Resources Control Board (State Water Board) noticed a public workshop to receive comments regarding the periodic review of the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (2006 Bay-Delta Plan). The San Luis & Delta-Mendota Water Authority (Authority) and Westlands Water District (Westlands) appreciate the opportunity to provide comments to the State Water Board on that effort.

**THE STATE WATER BOARD NEEDS TO IMPLEMENT A NEW APPROACH FOR ITS PERIODIC REVIEW OF THE 2006 BAY-DELTA PLAN**

The Authority and Westlands urge the State Water Board to pause and reflect on the current circumstances.

- There are 40 (or more) initiatives or planning efforts ongoing within the Bay-Delta estuary, some of which contemplate significant changes to the manner in which the Bay-Delta estuary is managed;
- The 2006 Bay-Delta Plan is intended to protect beneficial uses within the Bay-Delta estuary; however, most, if not all, of the beneficial uses are suffering; and
- There has been a failure to develop a balanced regulatory program that addresses all of the human activities affecting the beneficial uses of the Bay-Delta estuary.

Now is the time for the State Water Board to work with other existing, ongoing efforts to develop a calculated approach that rectifies the existing regulatory deficiencies.

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## **The State Water Board Should Not Ignore The Many Existing Initiatives And Planning Efforts Within The Bay-Delta Estuary**

The Authority and Westlands believe the State Water Board should approach the periodic review of the 2006 Bay-Delta Plan in two stages: the first stage being focused on potential interim changes to water quality objectives and the second stage centered on possible longer-term modifications. The water quality objectives in the 2006 Bay-Delta Plan are based upon the existing configuration of the Bay-Delta estuary and existing "through Delta" approach to Central Valley Project (CVP) and State Water Project (SWP) conveyance. Management of the Bay-Delta estuary within those and other existing constructs is not likely to continue.

There are currently 40 (or more) initiatives or planning efforts ongoing within the Bay-Delta estuary. (See attachments for list and description of those efforts as well their existing timelines). The consensus developing from many of those processes is that there must be significant change in management of the Bay-Delta estuary. A stepped approach to the periodic review would allow for a transition, if the State Water Board deems it appropriate, from water quality objectives appropriate for the current Bay-Delta estuary configuration to water quality objectives that might be appropriate under a changed Bay-Delta estuary paradigm. It would also provide better assurances that the periodic review undertaken by the State Water Board could compliment, rather than potentially conflict with, those other ongoing efforts referenced above.

## **The State Water Board Must Recognize That The Existing Water Quality Objectives Are Failing**

History demonstrates water quality objectives contained in the 2006 Bay-Delta Plan do not strike the appropriate balance among competing beneficial uses. Most, if not all, of the beneficial uses of waters of the Bay-Delta estuary are suffering. That suffering may be in large part due to: (1) the relatively myopic focus of the existing water quality objectives on what were perceived as impacts of the CVP and SWP, and (2) the program of implementation placing the disproportionate burden of implementing those objectives on the agricultural, municipal, and industrial interest that use water developed by the CVP and SWP. Notwithstanding that focus, the populations of fish and wildlife the water quality objectives are intended to protect have declined. To avoid a similar circumstance in the future, the State Water Board should order that, when it conducts the periodic review of the 2006 Bay-Delta Plan, data and analyses are performed which measure the potential benefits/costs for each water quality objective. It should also consider increasing the flexibility (decreasing prescriptive nature) of water quality

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objectives. The Authority and Westlands believe such an approach will allow for the development of more protective water quality objectives with lower water costs.

### **The State Water Board Must Develop and Focus New Regulatory Tools On Factors That Impair Beneficial Uses But Have Been Unregulated Or Under-regulated**

During the period in which the entire effort to protect beneficial uses of water in the Bay-Delta estuary has been directed at the CVP and SWP, many other factors affecting water quality, fish and wildlife have gone unregulated or under-regulated. On September 29, 2008, the Authority and Westlands (along with the State Water Contractors and Kern County Water Agency) filed with the State Water Board a letter responding to a request for written input on factual issues regarding the Bay-Delta. In that letter, the Authority and Westlands proposed a number of additional factual issues the State Water Board should consider during evidentiary proceedings. As that list of issues suggests, there are a significant number of factors that effect beneficial uses of water within the Bay-Delta estuary that require attention. Unregulated or under-regulated "stressors", include, but are not limited to, illegal in-Delta diverters, entrainment by non-CVP or SWP in-Delta diversions, discharges of toxics (including ammonia and endocrine disrupting compounds), invasive or non-native species, harvest, and in-Delta channel dredging.

An unfortunate example of the lack of adequate regulation involves the City of Stockton's regional wastewater control facility and municipal separate storm sewer system. The City of Stockton has continuously violated its National Pollutant Discharge Elimination System (NPDES) permits for the facility and system. Between 2002 and the present, the City of Stockton has ongoing violations likely numbering in the hundreds, if not thousands, violations that have resulted in unpermitted discharges of toxics into the Bay Delta estuary. Notwithstanding those violations and lack of enforcement by the Regional Water Board, its staff, as recently as last month, proposed the City of Stockton operate under a new NPDES permit, which includes effluent limitations that directly conflict with the 2006 Bay Delta Plan.

A more balanced (and consistent) regulatory approach and implementation of the next water quality control plan would be more equitable and will likely prove more protective of all beneficial uses within the Bay-Delta estuary.

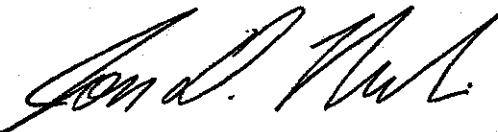
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Thank you for your consideration of these comments.

Very truly yours,

**DIEPENBROCK HARRISON**  
A Professional Corporation

By 

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Attorneys for the San Luis & Delta-Mendota  
Water Authority and Westlands Water District

cc: Daniel Nelson  
Thomas Birmingham

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Delta Vision Blue Ribbon Task Force Meeting  
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### **Bay-Delta Conservation Plan (BDCP)**

The Bay-Delta Conservation Plan is being developed to allow for projects to proceed that restore and protect water supply, water quality, and ecosystem health within a stable regulatory framework. When finished, this proposed comprehensive regional conservation plan will address compliance with federal and California endangered species laws and regulations covering activities by various Potentially Regulated Entities (PREs) in the Statutory Delta. The process for planning is outlined in the BDCP Planning Agreement, dated October 6, 2006. BDCP planning goals are:

- Provide for the conservation and management of Covered Species within the Planning Area;
- Preserve, restore, and enhance aquatic, riparian and associated terrestrial natural communities and ecosystems that support Covered Species within the Planning Area through conservation partnerships;
- Allow for projects to proceed that restore and protect water supply, water quality, and ecosystem health within a stable regulatory framework;
- Provide a means to implement Covered Activities in a manner that complies with applicable State and federal fish and wildlife protection laws, including CESA and FESA, and other environmental laws, including CEQA and NEPA;
- Provide a basis for permits necessary to lawfully take Covered Species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for Covered Activities within the Planning Area;
- Provide a less costly, more efficient project review process which results in greater conservation values than project-by-project, species-by-species review; and
- Provide clear expectations and regulatory assurances regarding Covered Activities occurring within the Planning Area.

### **CALFED Ecosystem Restoration Program Conservation Strategy (ERP)**

This document will describe the ERP's strategy to achieve the recovery of at-risk species and the rehabilitation and restoration of natural processes and functions within the Bay-Delta estuary and its watershed.

The *End of Stage 1 Evaluation*, produced by the Department of Fish and Game, qualitatively assesses actions that were deemed technically, economically, and politically feasible to implement in the first seven years of the Ecosystem Restoration Program. The report describes the status of fulfilling these Stage 1 program priorities and implementation of restoration activities. Information is summarized by program elements, ecological management zones, and regional summaries. This report is part of the overall ERP assessment and is meant to compliment the more quantitative ERP *Milestone Assessment*.

The *Milestone Assessment*, produced by the Department of Fish and Game, quantitatively evaluates how well the ERP has achieved a discrete set of conservation actions embodied in 119 milestones. The milestones were intended to be carried out during the CALFED Program's Stage 1 (the first 7 years of the

30-year program) and were developed to ensure ESA, NCCPA, and CESA compliance. The *Milestone Assessment* provides a status for each milestone, states what was done to achieve designated actions, and discusses recommendations for meeting milestones in the future. This report is part of the overall ERP assessment and is meant to compliment the more qualitative ERP End of Stage 1 Evaluation. A summary of EWA operations and the effects of the EWA on targeted species are discussed as well.

#### **CALFED Stage 2 Planning**

As the CALFED Program completes Stage 1, a direction needs to be established for continuation of the Program. As envisioned by the ROD, CALFED agencies are currently evaluating alternative approaches for Delta conveyance, primarily by participating in the Delta Vision and BDCP processes that include consideration of alternative conveyance approaches for the Delta. Similarly, the agencies are participating in DRMS to assesses the major risks to the Delta resources from floods, seepage, subsidence, and earthquakes and develop recommendations to manage the risk. As such, it is premature to set a specific future direction at this time. However, it is expected that many of CALFED's Stage 1 actions will continue in the future. Further, recommendations from the initiatives may lead to some revision or refinement of Delta actions identified in the ROD or development of new Delta actions.

#### **CALFED State of Bay-Delta Science, 2008 (SBDS)**

The SBDS is an iterative effort to compile, synthesize and communicate the current scientific understanding of the Bay-Delta ecosystem and provide relevant scientific context to inform resource management and decision making. The first edition will focus on the key issues relevant to CALFED Program Stage 2 decisions and the Delta Vision process and will incorporate the most current understanding of system function and a description of ecosystem services as well as describing the drivers or demands and the influence of management action on these services and the system of the whole.

#### **CALFED Surface Storage Investigations (SSI) (Department of Water Resources and US Bureau of Reclamation)**

SSI was formulated to evaluate the five surface storage projects identified in the CALFED Bay-Delta Program Record of Decision (August 28, 2000). The goal of the Storage Program is to increase water supply reliability, improve water quality, and support ecosystem restoration through expanded storage capacity and increased operational flexibility. Additional surface storage will provide flexibility to the State's water management system, which can be operated to contribute to the long-term sustainability of the Delta ecosystem, maintaining water quality and supply reliability, and preventing and planning for catastrophic failure of the Delta system. With additional capacity and integrated operations, water diversion and deliveries can also be timed in ways that will allow for better response to the effects of earthquakes, floods, and climate change.

Glossary of Delta and Suisun Initiatives  
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The Department of Water Resources and U.S. Bureau of Reclamation, with input from stakeholders and assistance from local water agencies, are conducting the planning and feasibility studies. The five surface storage investigations are:

- Shasta Lake Water Resources Investigation (SLWRI)
- North-of-the-Delta Offstream Storage (NODOS)
- In-Delta Storage Project (IDSP)
- Los Vaqueros Reservoir Expansion (LVE)
- Upper San Joaquin River Basin Storage Investigation (USJRBSI)

**California Water Plan Update 2009**

The *California Water Plan* provides a framework for water managers, legislators, and the public to consider options and make decisions regarding California's water future. The Plan, which is updated every five years, presents basic data and information on California's water resources including water supply evaluations and assessments of agricultural, urban, and environmental water uses to quantify the gap between water supplies and uses. The Plan also identifies and evaluates existing and proposed statewide demand management and water supply augmentation programs and projects to address the State's water needs.

**Central Valley Regional Water Quality Control Board (CVRWQCB) Delta Methylmercury Total Maximum Daily Load (TMDL) Program**

The Central Valley Water Board is developing a total maximum daily load (TMDL) program to address the methylmercury impairment in Delta fish. The Central Valley Water Board identified the Delta as impaired by mercury because Delta fish have elevated levels of methylmercury that pose a risk for human and wildlife consumers. The Central Valley Water Board's development of a water quality attainment strategy to resolve the mercury impairment in the Delta has two components: the methylmercury TMDL for the Delta and the amendment of the Water Quality Control Plan for the Sacramento River and San Joaquin River Basins (the Basin Plan) to implement the TMDL control program. The proposed implementation program focuses on reducing sources of both methylmercury and inorganic mercury in the Delta and upstream watersheds.

The proposed program recommends that parties responsible for methylmercury sources be required to conduct methylmercury source characterization and control studies. The purpose of the studies is to develop feasible management practices to control the discharge of methylmercury from the various sources. Future programs could require implementation of the management practices.

**Contra Costa County General Plan (2005-2020)**

The Contra Costa County Board of Supervisors adopted a comprehensive General Plan (1990-2005) in January 1991 following an extensive public outreach and participation process initiated in 1986. This comprehensively updated General Plan superseded the County's prior General Plan (and each of the previously adopted elements), and consolidated several area specific General Plans into one



plan document. The Contra Costa County General Plan was reconsolidated by the Board of Supervisors in July 1996 to reflect General Plan Amendments from 1991 to 1995 and to correct minor errors and omissions discovered in the original 1991 General Plan text. This first County General Plan Reconsolidation covered the period from 1995 through 2010. A second General Plan Reconsolidation was approved by the Board of Supervisors in January 2005 to reflect General Plan Amendments adopted between 1995 and 2004, to revise text and maps to reflect the 1999 incorporation of the City of Oakley, formerly an unincorporated community that was covered under the County General Plan, and to consolidate a newly adopted Housing Element into the General Plan. The second County General Plan Reconsolidation was adopted in January 2005 and covers the period from 2005 through 2020.

**Delta Protection Commission, Governor's Office of Emergency Services, and Five Delta Counties' Emergency Planning and Response Collaborative Process**

The Delta Protection Commission facilitated a summit meeting in 2006 of the five Delta counties to discuss and agree upon a coordinated effort at Delta-wide emergency planning especially to ensure that societal issues were included as well as common assumptions and approaches between the many planning efforts underway. The Commission moved forward in the fall of 2007 to work with the Governor's Office of Emergency Services and the Center for Collaborative Policy, CSUS, to develop a process including all local, state, (including the California Department of Water Resources) and federal agencies involved with emergency response in the Delta to ultimately achieve a coordinated regional emergency response framework plan. This plan is envisioned to be the integrating "overlay" and linking tool to provide one common framework of emergency response planning that supports and strengthens existing and future jurisdictional plans in the Delta. Societal issues associated with a catastrophic emergency in the Delta are to be focused on to ensure there is Delta-wide coordination in the planning and response to issues such as: regional mass care and shelter, large scale evacuation, public warning, public information, interoperable communication and so forth.

**Delta Protection Commission Management Plan Update**

The Delta Protection Act of 1992 required the Delta Protection Commission to prepare, adopt, review, and maintain a comprehensive long-term resource management plan for land uses within the Sacramento-San Joaquin Delta. The plan covers an area called the Primary Zone which includes approximately 500,000 acres of waterways, levees and farmed lands extending over portions of five counties: Solano, Yolo, Sacramento, San Joaquin and Contra Costa. The goals of the Plan are to "protect, maintain, and where possible, enhance and restore the overall quality of the Delta environment, including but not limited to agriculture, wildlife habitat, and recreational activities; assure orderly, balanced conservation and development of Delta land resources and improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety." Provisions of the Act preclude the Plan from denying a

landowner the right to continue agricultural use. The Act also specifically prohibits eminent domain unless requested by the landowner. The Plan has eight policy areas, including (1) Environment, (2) Utilities and Infrastructure, (3) Land Use and Development, (4) Water and Levees, (5) Agriculture, (6) Recreation and Access, (7) Marine Patrol, and (8) Boater Education and Safety Programs. Since preparation of the original plan in 1995, a number of issues (like climate change and flood management) and initiatives (like Delta Vision) have prompted new interest in updating the Plan and revisiting the overall structure of Delta governance.

**Delta Regional Ecosystem Restoration Implementation Plan (DRERIP)**

DRERIP is one of four regional plans intended to guide the implementation of the CALFED Bay-Delta Program's Ecosystem Restoration Program (ERP) element. The DRERIP will refine the planning foundation specific to the Delta, refine existing Delta specific restoration actions and provide Delta specific implementation guidance, program tracking, performance evaluation and adaptive management feedback. Conceptual models and other DRERIP work products could be used in developing the Delta Vision.

**Delta Risk Management Strategy (DRMS)**

The Delta Risk Management Strategy (DRMS) goals and objectives are:  
Phase 1: Evaluate the risk and consequences to the State (e.g., water export disruption and economic impact) and the Delta (e.g., levees, infrastructure, and ecosystem) associated with the failure of Delta levees and other assets considering their exposure to all hazards (seismic, flood, subsidence, seepage, sea level rise, etc.) under present as well-as for 50-,100-, and 200-years from now. The evaluation shall assess the total risk as well as the disaggregated risk for individual islands.

Phase 2: Propose risk criterion for consideration of alternative risk management strategies and for use in management of the Delta and the implementation of risk informed policies. Develop a Delta Risk Management Strategy, including a prioritized list of actions to reduce and manage the risks or consequences associated with Delta levee failures.

**Delta Vision (DV)**

The initiative resulting from legislation and Governor Schwarzenegger's Executive Order S-17-06 to integrate the many but separate Delta planning efforts, using a collaborative and inclusive public process, to develop and articulate findings and recommendations for durable and sustainable management of the Delta. The Delta Vision will be the basis of a Delta Strategic Plan that will include recommendations for regional management arrangements among elected officials, government agencies, stakeholders, academia and affected California communities.

**Department of Fish and Game (DFG) California Longfin Smelt Petition**

The Bay Institute, Center for Biological Diversity, and Natural Resources Defense Council submitted a petition seeking action by the California Fish and Game Commission (Commission) to list the longfin smelt (*Spirinchus thaleichthys*) as threatened or endangered under the California Endangered Species Act (CESA; Fish and Game Code Sections 2050-2115). The petition also sought action by the Commission to list the longfin smelt on an emergency basis. The Commission rejected the emergency request to list longfin smelt as an endangered species opting instead to evaluate the petition through standard rulemaking procedures. As part of their consideration of the petition, the Commission categorized longfin smelt a 'candidate species' under the CESA. Pursuant to the provisions of Section 2074.6 of the Fish and Game Code, the Department of Fish and Game (DFG) must complete a status review of the species and provide a written report to the Fish and Game Commission that indicates --- based upon the best scientific information available --- whether or not listing the longfin smelt as threatened or endangered under CESA is warranted.

**Department of Water Resources Delta Levees Program (Delta Suisun Marsh Office – Levees and Habitat Enhancement)**

The Delta-Suisun Marsh Office is responsible for improving flood protection and habitat resources within the Sacramento-San Joaquin Delta and portions of the Suisun Marsh. The office is involved in implementation of the CALFED Levee System Integrity Program. The office also administers the Delta Levees Flood Protection Program as authorized by the Water Code. This program works with more than 60 reclamation districts in the Delta and Suisun Marsh to maintain and improve the flood control system and provide protection to public and private investments in the Delta including agricultural lands, legacy towns, water supply, habitat, and wildlife. The program, through its two major implementation components, Delta Levees Maintenance Subventions Program and Delta Levees Special Flood Control Projects, works with the local agencies to maintain, plan and complete levee rehabilitation projects.

The Environmental Compliance and Ecosystem Enhancement Branch is responsible for working with Delta and Suisun Marsh reclamation districts to address project and programmatic environmental needs. This includes working in partnership with reclamation districts, the Department of Fish and Game, and other agencies to ensure that needed levee repairs provide no net loss of habitat, and that the program overall provides net habitat enhancement in the Delta. In addition to being the Office's liaison with the Department of Fish and Game, the branch participates in CALFED and other interagency collaborative groups on Delta issues.

**East Contra Costa County HCP/NCCP**

The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan ("Plan") is intended to provide regional conservation and development guidelines to protect natural resources while improving and streamlining the permit process for endangered species and wetland regulations.

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The Plan will allow Contra Costa County, the Contra Costa County Flood Control and Water Conservation District, the East Bay Regional Park District and the Cities of Brentwood, Clayton, Oakley, and Pittsburg (collectively, the Permittees) to control endangered species permitting for activities and projects in the region that they perform or approve. The Plan also provides for comprehensive species, wetlands, and ecosystem conservation and contributes to the recovery of endangered species in northern California. The Plan avoids project-by-project permitting that is generally costly and time consuming for applicants and often results in uncoordinated and biologically ineffective mitigation.

The Plan was developed by a team of scientists and planners with input from independent panels of science reviewers and stakeholders. Within the 174,018 acre inventory area, the Plan will provide permits for between 8,670 and 11,853 acres of development and will permit impacts on an additional 1,126 acres from rural infrastructure projects. The Preserve System to be acquired under the Plan will encompass 23,800 to 30,300 acres of land that will be managed for the benefit of 28 species as well as the natural communities that they, and hundreds of other species, depend upon. By proactively addressing the long-term conservation needs, the Plan strengthens local control over land use and provides greater flexibility in meeting other needs such as housing, transportation, and economic growth in the area.

Suggested by the wildlife agencies in 1998, work on the Plan officially got underway in October of 2001. The Final Plan was released in October 2006 and approved by all participating local, state and federal agencies by August 2007. Implementation of the Plan is now underway and will continue for the 30 year life of the Plan and associated permits.

**FloodSAFE California, including the Central Valley Flood Protection Plan**

FloodSAFE California is a multi-faceted, strategic program to improve public safety through integrated flood management. The FloodSAFE vision is a sustainable, integrated flood management and emergency response system throughout California that improves public safety, protects and enhances environmental and cultural resources, and supports economic growth by reducing the probability of destructive floods, promoting beneficial floodplain processes, and lowering the damages caused by flooding. The program builds upon the State's ongoing flood management work, especially progress made since Governor Arnold Schwarzenegger called for improved maintenance, system rehabilitation, effective emergency response, and sustainable funding.

**Interagency Ecological Program (IEP), including Pelagic Organism Decline (POD) and other special studies**

The Interagency Ecological Program (IEP) for Monitoring and Research in the Bay Delta represents a consortium of nine federal and state agencies. The program was initiated in 1970 to provide ecological information for use in management of the Sacramento/San Joaquin Delta and San Francisco Estuary. IEP coordinates and conducts monitoring and focused scientific investigations and communicates the findings to high level management and policy leaders of

the state and federal governments. Recent abundance indices calculated by IEP suggest marked declines since 2000 in four pelagic fishes in the upper San Francisco Estuary (the Delta and Suisun Bay). In response to these changes, the IEP formed a Pelagic Organism Decline (POD) work team in 2005 to evaluate potential causes. More than 50 individual special studies were undertaken to investigate potential underlying causes of the POD. The most recent progress report (2007 Synthesis of Results) was published in January 2008. Many POD studies are still in progress. Highlights of new work will be presented in another progress report expected by January 2009.

### **The Great California Delta Trail System**

Recognizing the unique natural resources of the Sacramento-San Joaquin Delta, the growing demands for public access to these resources, and the increasing recognition of the importance of outdoor recreation in addressing childhood obesity, the California Legislature passed, and the Governor signed, Senate Bill 1556 (Senator Torlakson) supporting the creation of a Delta trail network. The vision is for the trail to link the San Francisco Bay Trail system and planned Sacramento River trails in Yolo and Sacramento counties to present and future trail ways around and in the Delta, including Delta shorelines in Contra Costa, San Joaquin, Solano, Sacramento, and Yolo counties. The Delta Protection Commission will facilitate the feasibility and planning process, which will include a Stakeholder Advisory Group and Technical Advisory Group. A consulting team, consisting of Valley Vision and Alta Planning and Design, has been selected through an RFP process to assist the Commission. A large grant proposal has been submitted to Caltrans for Delta trail planning.

### **Lower Yolo Bypass Planning Forum**

The Lower Yolo Bypass is the most downstream portion of the Yolo Bypass (Bypass), a massive levied floodway located west of the Sacramento River and within Yolo and Solano counties. The Bypass provides flood conveyance for the cumulative high flows from several northern California waterways to the Sacramento-San Joaquin River Delta (Delta). In addition to flood conveyance, the Bypass provides critical habitat to a variety of species including numerous bird species and threatened and endangered fish such as the Delta Smelt and Sacramento Splittail. The Bypass also provides recreation opportunities, including widespread hunting and fishing use.

To address these issues (and with generous funding support from the California Department of Fish and Game), the Delta Protection Commission and the Yolo Basin Foundation are co-sponsoring The Lower Yolo Bypass Planning Forum. The Forum will seek to achieve what no single affected stakeholder and associated agency / organization has achieved to date; the collaborative creation of a mutually beneficial, mutually agreed on, long- range management strategy for the Lower Bypass. The Forum Group will be comprised of representatives from national, state, and local government agencies, as well as private land owners and recreation enthusiasts. Participation is completely voluntary and based on the assumption that all interest groups will be given equal weight in the

decision/recommendation making process.

**Operation Criteria and Plan Consultation (OCAP)**

The Operations Criteria and Plan (OCAP) ESA consultation addresses ongoing Central Valley and State Water Project operations and future changes. The U.S. Bureau of Reclamation formally consulted on several new actions, such as Freeport diversion project, municipal and industrial shortage policy, the Trinity ROD flows, the DMC/California Aqueduct Intertie. There was also early consultation (on actions that are not anticipated to be implemented in the immediate future) on the operation of South Delta Improvement Project (SDIP) with assumptions for a long-term Environmental Water Account (EWA). Additional consultation under ESA will be required prior to implementing any actions addressed in the early consultation. The OCAP consultation is not a decision making process, but rather analyzes the effects of proposed operation on listed species. It involves issuing a Biological Assessment (BA) followed by the U.S. National Marine Fisheries Service and U.S. Fish and Wildlife Service issuing (or revising) Biological Opinions (BO) on Delta smelt, salmon, and steelhead. Decisions on implementing new actions are made in separate project-specific planning/environmental compliance processes.

**Public Policy Institute of California/UC Davis “Comparing Futures for the Sacramento-San Joaquin Delta” Report**

This project is a follow-up to the Public Policy Institute of California/UC Davis report *Envisioning Futures for the Sacramento-San Joaquin Delta*, released in February 2007. The project will: (i) compare promising Delta solutions in terms of ecosystem, water quality, and economic outcomes under different scenarios of climate change, (ii) assess the regulatory implications of different management alternatives, and (iii) provide a framework and tools for choosing among alternatives under uncertainty. Analytical tools and information resources include hydrodynamic modeling of water management scenarios, hydro-economic models of water delivery quantity and quality costs and benefits, and interviews and workshops with experts on the Delta ecosystem, water quality management, and the regulatory environment. Products will include a short report for a policy audience and several technical appendices. The target publication date is June 2008. Some intermediate results may be available earlier for discussion.

**Sacramento County General Plan Update**

This project consists of the adoption of an updated General Plan for the County of Sacramento (Control Number 02-0105). This Plan is intended to guide the growth and development of the County through the year 2030, and supports the Sacramento Area Council of Governments’ Blueprint Vision for regional land use and transportation. The County’s existing General Plan was adopted by the Board of Supervisors in 1993 and is approaching its time horizon of 2010.

After conducting extensive public outreach and coordinating with various agencies, organizations and jurisdictions at the federal, state, and local level, the County unveiled the Public Review Draft of the General Plan on November 8,

2006. The Board of Supervisors then held additional public workshops to review the key themes of the General Plan, to receive and consider additional input from the public and other stakeholders, and to make changes to the draft General Plan. On May 30, 2007, the Board adopted a Resolution (No. 2007-0698) to transmit the Draft General Plan to the Department of Environmental Review and Assessment (DERA) to begin the environmental analysis of the Draft Plan.

#### **San Francisco Bay Conservation and Development Commission (SF BCDC) Bay Plan Updates**

The Bay Plan was completed and adopted by the San Francisco Bay Conservation and Development Commission in 1968 and submitted to the Legislature and Governor in 1969. In 1969, the Legislature acted upon the Commission's recommendations in the Bay Plan and revised the McAteer-Petris Act by designating the Commission as the agency responsible for maintaining and carrying out the provisions of the Act and the Bay Plan for the protection of the Bay and its great natural resources and the development of the Bay and its shoreline to their highest potential with a minimum of Bay fill. To keep pace with changing conditions and to incorporate new information concerning the Bay, the McAteer-Petris Act specifies that the Commission should make a continuing review of the Bay Plan and may amend or make other changes to the Bay Plan provided the changes are consistent with provision of the Act. Since its adoption by the Commission in 1968, the Bay Plan has been amended periodically and the Commission continues to systematically review the Plan to keep it current.

#### **San Francisco Estuary Project (SFEP) 2007 Comprehensive Conservation and Monitoring Plan (CCMP)**

The San Francisco Estuary Project recently completed an update to its 1993 Comprehensive Conservation and Management Plan (CCMP). In August 2007, the Estuary Project's Implementation Committee adopted the revised CCMP and forwarded it to its Executive Council for review and expected concurrence. The 2007 CCMP was based on input from more than 80 representatives from federal and state agencies, local governments, environmental groups, business and industry, academia, and the public. The 2007 CCMP contains 201 actions pertinent to the protection and restoration of San Francisco Bay and the Sacramento-San Joaquin Delta. It seeks to achieve high standards of water quality, including restoration and maintenance of a balanced indigenous population of fish, shellfish and wildlife, and recreational activities in the estuary, and assure that the designated uses of the estuary are protected.

The Estuary Project is one of 28 programs created by Congress in the Clean Water Act's Section 320: the National Estuary Program established to protect and improve the water quality and natural resources of estuaries nationwide. The Estuary Project was formed in 1987 as a cooperative federal/state/local program to promote effective management of the San Francisco Bay-Delta Estuary. It is financed by federal appropriations and funds from the state and local entities.

### **San Joaquin County General Plan Update**

San Joaquin County is just beginning the comprehensive update of the General Plan for the unincorporated areas of the County. It is anticipated that the process will take three to five years. The current General Plan was adopted in 1992 and is effective through 2010. The General Plan expresses the long-range public policy to guide the use of private and public lands in regards to development and resource management. The Housing Element will be updated in 2009 and will be incorporated into the updated General Plan. The General Plan will include required elements addressing land use, circulation, safety, noise, open space, and conservation, and will, also, address agriculture and climate change.

### **San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP)**

The key purpose of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP or Plan), is to provide a strategy for balancing the need to conserve Open Space and the need to convert Open Space to non-Open Space uses while protecting the region's agricultural economy; preserving landowner property rights; providing for the long-term management of plant, fish and wildlife species, especially those that are currently listed, or may be listed in the future, under the Federal Endangered Species Act (ESA) or the California Endangered Species Act (CESA); providing and maintaining multiple-use Open Spaces which contribute to the quality of life of the residents of San Joaquin County; and accommodating a growing population while minimizing costs to Project Proponents and society at large.

### **Solano Habitat Conservation Plan**

In March 1999, the United States Fish and Wildlife Service (USFWS), in accordance with Section 7 of the Federal Endangered Species Act (ESA) of 1973 (as amended), issued a Biological Opinion (BO) regarding the Solano Project Water Service Contract Renewal between the United States Bureau of Reclamation and the Solano County Water Agency (SCWA). In the BO, USFWS asked SCWA to consider undertaking a Habitat Conservation Plan to address impacts to endangered species by the Solano Project, SCWA agreed to do so. The Solano Project is the Reclamation project that makes water available to SCWA and its contractors. The 25-year contract between the United States Bureau of Reclamation and SCWA provides for continued delivery of Solano Project water for agricultural, municipal, and industrial purposes throughout the SCWA contract service area.

The purpose of the Solano HCP is to promote the conservation of biological diversity and the preservation of endangered species and their habitats consistent with the recognition of private property rights; provide for a healthy economic environment for the citizens, agriculture, and industries; and allow for the on-going maintenance and operation of public and private facilities in Solano County. The Solano HCP is a county-wide Conservation Plan, covering 580,000 acres, 71 species, four Natural Communities, and has fourteen Plan Participants. The Draft Solano HCP describes the measures, monitoring, and adaptive



management necessary to conserve the important biological resources of Solano County.

**Solano County General Plan Update**

A comprehensive update to the Solano County General Plan to guide both development and conservation within the unincorporated county through 2030. The program will update the Land Use Element, Circulation Element, Conservation Element, Open Space Element, Noise Element and Safety Element. These General Plan elements and along with the existing Housing Element and Park and Recreation Element will be consolidated into a new single comprehensive General Plan document. The new General Plan will be organized by topics rather than by separate individual elements.

**South Sacramento Habitat Conservation Plan (HCP)**

The South Sacramento Habitat Conservation Plan (SSHCP) is a regional approach to addressing issues related to urban development, habitat conservation, open space protection and agricultural protection. The SSHCP will consolidate environmental efforts to protect and enhance wetland (primarily vernal pools), aquatic, and upland habitats to provide ecologically viable conservation areas. It will also minimize regulatory hurdles and streamline the permitting process for projects that engage in development or covered activities.

The SSHCP Study Area encompasses approximately 341,249 acres within south Sacramento County and includes the cities of Elk Grove, Galt and Rancho Cordova. The geographical boundaries of the Study Area are U.S. Highway 50 to the north, Interstate 5 to the west, the Sacramento County line with El Dorado and Amador Counties to the east, and San Joaquin County to the south. The Study Area excludes the City of Sacramento, the City of Folsom and Folsom's Sphere of Influence, the Sacramento-San Joaquin Delta, and the Sacramento County community of Rancho Murieta.

**State Water Resources Control Board (SWRCB) Bay-Delta Strategic Workplan**

On December 4, 2007, the State Water Board adopted Resolution 2007-0079 outlining regulatory actions the State Water Board, Central Valley Regional Water Board, and San Francisco Bay Regional Water Board will take, or will consider taking, to address Bay-Delta issues related to water supply, species protection, and water quality improvements. The resolution directs Water Board staff to develop a strategic workplan that prioritizes and describes the scope of Bay-Delta activities. Staff will present a workplan to the Water Board for its adoption in July 2008.

**Suisun Marsh Charter Implementation Plan (SMP)**

The SMP and its accompanying Programmatic Environmental Impact Statement/Report (PEIS/EIR) will develop, analyze, and evaluate potential environmental benefits and impacts resulting from various actions necessary in the Suisun Marsh to preserve and enhance managed seasonal wetlands, implement a comprehensive levee protection/improvement program, and protect ecosystem

and drinking water quality, while restoring habitat for tidal marsh-dependent sensitive species, consistent with the California Bay-Delta Program's strategic goals and objectives.

#### **US Army Corps of Engineers (USACE) Delta Dredged Sediment Long-Term Management Strategy (LTMS)**

The five initial participating agencies (USACE, U.S. Environmental Protection Agency, California Department of Water Resources, California Bay-Delta Authority, and Central Valley Regional Water Board) agreed to examine the sediment issues and needs within the Delta. The participating agencies drafted a three-part project purpose statement:

- The Delta Dredged Sediment LTMS development process will examine and coordinate dredging needs and sediment management in the Delta to assist in maintaining and improving channel function (navigation, water conveyance, flood control, and recreation), levee rehabilitation, and ecosystem restoration.
- Agencies and stakeholders will work cooperatively to develop a sediment management plan (SMP or LTMS) that is based on sound science and protective of the ecosystem, water supply, and water quality functions of the Delta.
- As part of this effort, the sediment management plan will consider regulatory process improvements for dredging and dredged material management so that project evaluation is coordinated, efficient, timely, and protective of Delta resources.

#### **USACE Delta Islands and Levees Feasibility Study**

Given the serious need to reconstruct Delta levees, the USACE developed action strategies to address levee improvements and assigned priorities that could be carried out under the CALFED Act (PL 108-361, 2004) through 2010. This is known as the short-term CALFED Levee Stability Program. The long-term strategy for the Delta levees will be developed as part of the Sacramento-San Joaquin Delta Islands and Levees Feasibility Study. This study will assess existing and future flood risks in the Delta area, as well as ecosystem restoration, recreation, and water supply needs, and develop a comprehensive vision and roadmap for future Federal participation in the Delta. The plan, in conjunction with California Department of Water Resources' Delta Risk Management Study, will address remaining levee stability work beyond the \$90 million Federal effort authorized in the CALFED Act.

*See USACE CALFED Levee Stability Program.*

#### **USACE CALFED Levee Stability Program**

Given the serious need to reconstruct Delta levees, the USACE developed action strategies to address levee improvements and assigned priorities that could be carried out through 2010 under the CALFED Act (PL 108-361, 2004), which authorizes the appropriations of a total of \$90 million from FY 2005 through FY

2010 for the Federal share of levee project categories (see below). These strategies are known as the short-term CALFED Levee Stability Program, whose purpose is to move quickly to implement high priority levee reconstruction projects within the Section 205 Small Flood Control Projects funding limit (\$7 million per project and assuming that cost-sharing is 65 percent Federal and 35 percent non-Federal). The long-term strategy for the Delta levees will be developed as part of the Sacramento-San Joaquin Delta Islands and Levees Feasibility Study.

Project categories in the CALFED Act include (1) reconstructing Delta levees to base level protection; (2) further enhancing the stability of levees that have State-wide importance; (3) developing best management practices to control subsidence; (4) developing a Delta levee emergency management and response plan to enhance emergency and readiness response; (5) developing a DRMS after assessment of the consequences of potential Delta levee failures; (6) reconstructing Delta levees using dredged materials to the maximum extent practicable; (7) coordinating levee projects with existing levee and water resources projects; and (8) evaluating and rehabilitating the Suisun Marsh levees, if appropriate.

#### **US Fish and Wildlife Service (FWS) Delta Native Fishes Recovery Plan**

This recovery plan is intended to fulfill one of the primary purposes under section 2 of the Endangered Species Act of 1973 – to provide a means for the conservation of ecosystems upon which endangered and threatened species depend. Accordingly, the purpose and scope of this recovery plan is to outline a strategy for the conservation and restoration of Sacramento-San Joaquin Delta native fishes through the development of recovery measures that address the unique biological capabilities and needs of the species and the specific threats to their existence. Addressing the Delta ecosystem as a whole is a difficult proposition, considering its biotic and physical complexity and the fact that it has been, and continues to be, highly altered by human activities (Moyle, P.B., and B. Herbold, 1989. Status of the Delta smelt, *Hypomesus transpacificus*. Report submitted to Office of Endangered Species, US FWS, January 1989). The fish fauna of the Delta is in a state of general decline. Of the forty or so fish species in the present assemblage, approximately half are introduced, with the introduced species tending to be the most abundant while native species become an increasingly minor part of the assemblage (Moyle 2002, Inland Fishes of California, University of California Press, p 35). The most practical way to develop recovery or restoration recommendations that would take into account the complexity of the Delta ecosystem is to work with a selected group of fishes. Species addressed in this plan include: delta smelt, longfin smelt, Sacramento splittail, and Sacramento perch.

The basic objective of the Delta Native Fishes Recovery Plan is to establish self-sustaining populations of the species of concern that will persist indefinitely. The basic strategy for recovery is to manage the estuary in such a way that it is better habitat for aquatic life in general and for the fish species of concern in particular. Restoration of the Delta ecosystem may also include efforts

to reestablish the extirpated Sacramento perch.

#### **US FWS Longfin Smelt Petition**

The Bay Institute, Center for Biological Diversity, and Natural Resources Defense Council formally request that the U.S. Fish and Wildlife Service (USFWS) list the San Francisco Bay-Delta population of longfin smelt (*Spirinchus thaleichthys*) as an endangered species under the federal Endangered Species Act, 16 U.S.C. §§1531-1544 (ESA). Petitioners further request that the USFWS review whether the population warrants emergency listing, and if so, that the USFWS use its authorities under 16 U.S.C. §1533(b)(7) to list the population as endangered on an emergency basis. In the alternative, petitioners request that the USFWS list this longfin smelt population as a threatened species under the ESA. The petitioners also request that critical habitat be designated concurrent with the listing, as required by 16 U.S.C. 1533(b)(6)(C).

This petition is filed pursuant to the authorities of 5 U.S.C. §553(e), 16 U.S.C. §1533(b)(7) and 50 C.F.R. part 424.14. The USFWS has jurisdiction over this petition. This petition sets in motion a specific administrative process as defined by §1533(b)(3) and 50 C.F.R. §424.14(b), placing mandatory response requirements on the USFWS and very specific time constraints upon those responses.

#### **US National Marine Fisheries Service Central Valley Salmonids Recovery Plan**

The NOAA Fisheries Technical Recovery Team (TRT) met for three years and Phase I of the recovery planning process is complete. The TRT produced three papers on 1) current and historical population distributions 2) population viability, and 3) research and monitoring needs. These papers, as well as other recovery planning information can be accessed through linkages on NOAA Fisheries Recovery Planning webpage at <http://swr.nmfs.noaa.gov/recovery>.

Phase II of recovery planning is well underway, initiated in summer 2006 with a series of public workshops to educate attendees about the recovery planning process and collect threats information for winter and spring-run Chinook salmon and Central Valley steelhead. NOAA Fisheries is in the process of completing a threats assessment document that serves as the foundation of the recovery plan, along with the TRT products. Concurrent with completing the preliminary threats assessment, a second series of public workshops were held in May 2007, building on the (preliminary) prioritized threats information to start developing recovery actions that are responsive to these threats. Drafting of the recovery plan, including the input from all public workshops, is underway. NOAA Fisheries' intent is to provide a draft recovery plan and threats assessment for public and peer review in early to mid-2008. It is also NOAA Fisheries' intent to continue to hold public workshops to introduce the draft recovery plan not only to solicit public comments but also to facilitate implementation of recovery actions.

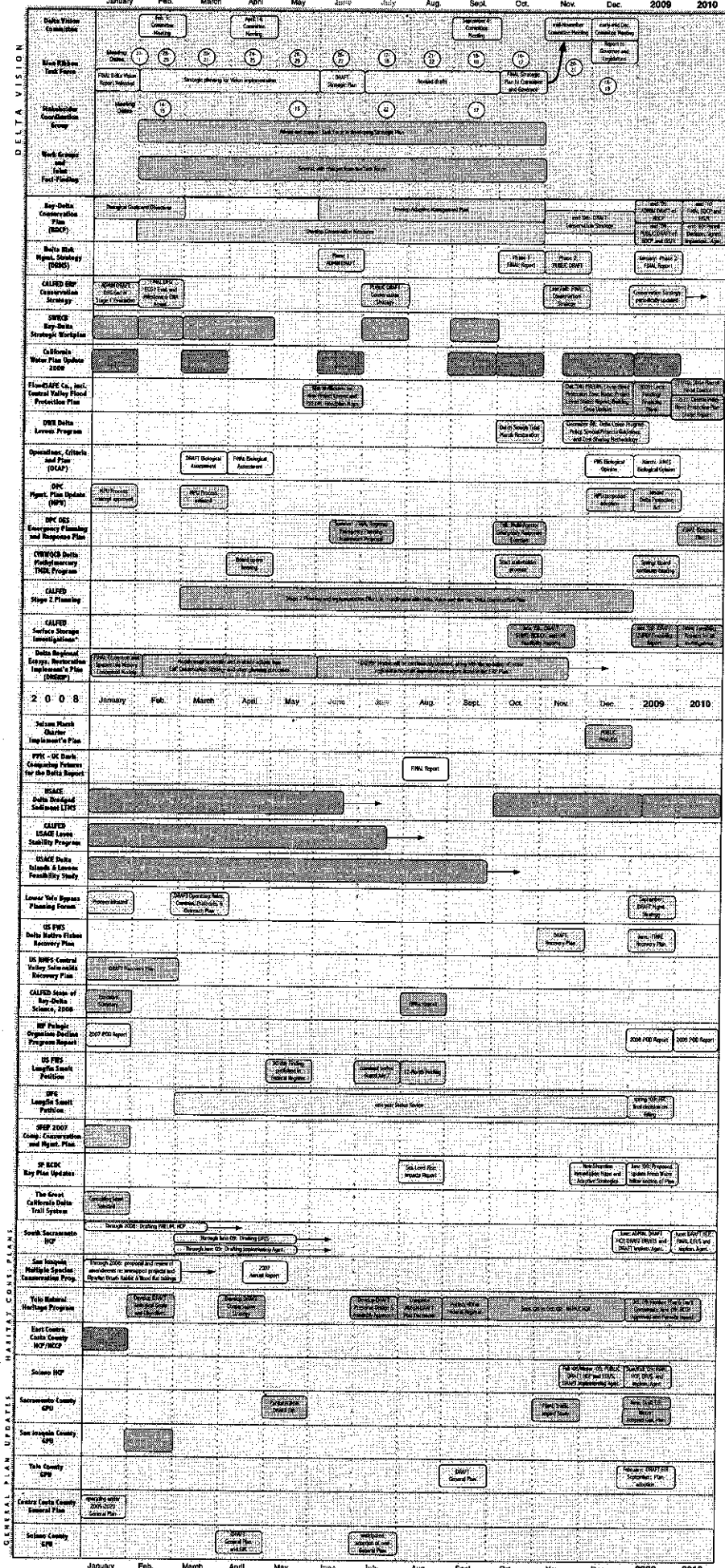
### **Yolo County General Plan Update**

The Yolo County General Plan provides the comprehensive long-term plan for the physical development of the unincorporated area of the County. The General Plan was last comprehensively updated in 1983 based on the County's original General Plan from 1958. While the County's fundamental land use goals (such as promoting agriculture and directing urban growth to the cities) have not changed, the economic circumstances facing the County have changed dramatically since the early 80's. There have also been significant demographic changes, for example the fact that increasingly many of the citizens living in our rural areas have no ties to agriculture. The agricultural sector has changed as well, with new regulations, economic forces, environmental issues, and crop patterns emerging regularly. The General Plan update allows the County to examine these issues in a comprehensive manner.

### **Yolo Natural Heritage Program**

The Yolo County NCCP/HCP Joint Powers Agency ("JPA") was formed in August 2002 for the purposes of acquiring Swainson's hawk habitat conservation easements and to serve as the lead agency for the preparation of a county-wide Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP), now rmat known as the Yolo Natural Heritage Program. The JPA governing Board is composed of representatives from member Agencies, which include two members of the Yolo County Board of Supervisors, one member each from the City Councils of Davis, Woodland, West Sacramento and Winters, and one ex-officio member from UC Davis.

The Yolo Natural Heritage Program is a county-wide Natural Communities Conservation Plan/Habitat Conservation Plan (NCCP/HCP) for the 653,629 acre planning area that provides habitat for many special status and at risk species found within five dominant habitats/natural communities. The Yolo Natural Heritage Program will describe the measures that will be undertaken to conserve important biological resources, obtain permits for urban growth and public infrastructure projects, and continue Yolo County's rich agricultural heritage.



The Federal Feasibility Process has three phases: the Initial Alternatives Information Report, the Plan Formulation Report, and the Feasibility Study Report, which includes an EIS/R, NODOS - North of Delta Outstream Storage Investigation (aka Delta) USIBR - Upper Delta River Basin Storage Investigation (aka Tappanville Plant) EIS/R - Shasta Lake Water Resources Investigation LVE - Low Variance Reservoir Expansion