

CVFPB Consultation Guidance Regarding the Delta Levee Investment Strategy (DLIS)

The Central Valley Flood Protection Board (Board) supports a statewide strategy for levee investment throughout the Central Valley. The Delta is an important part of this larger flood control system, and the Board recognizes the need to consider both State-owned and locally owned levees as components of the flood protection and water delivery system in the Delta. The Board supports the drafting of the DLIS and will participate in all aspects of its development. In order to support this effort, the Board has adopted the following guidance to be used by the Board and staff when providing comments and collaborating on strategy development.

The guidance is arranged around the themes of public safety, risk reduction and jurisdiction. Each is described in more detail below.

Public Safety. The Board will view the DLIS through the lens of its public safety mission to improve flood risk management throughout the Central Valley.

The co-equal goals of the water supply reliability and environmental enhancement along with the preservation of Delta as a place are important and laudable goals. But they are not the only governing principles in the Delta. The Delta is the exit point for flood waters carried by a vast and complex flood control system. The DLIS must take into account all of the other public agencies with interests in the Delta flood protection system and ensure the strategies implemented do not impede the implementation of other State priorities, projects or goals.

The Central Valley Flood Protection Plan (CVFPP), adopted in 2012, centers around the public policy need to improve flood risk management for the entire Central Valley, including the Delta. The CVFPP's systemwide investment approach for sustainable, integrated flood management in areas currently protected by facilities of the State Plan of Flood Control (SPFC) represents the State's priorities for the Central Valley. The CVFPP will be updated every five years, with each update providing support for subsequent policy, program, and project implementation. As the DLIS is developed, recognition of the systemwide approach of the CVFPP and its adopted public policies must be factored into the Delta-specific DLIS, because the Delta is a subset of the larger system, and investment strategies in the DLIS must complement and supplement those of the CVFPP. Competing strategies on the same system must be avoided.

Risk Reduction/State Liability. The Board will emphasize the need to protect State interests in infrastructure, critical public services and environmental enhancement in the DLIS

In addition to loss of life, levee failures and the associated inundation can cause destruction of property and infrastructure, interruption of water supply (a source of drinking water for about two out of every three Californians) as well as damage critical environmental, agricultural, commercial navigation and recreational interests in the region. There are extensive infrastructure and capital investments in the Delta, including wildlife habitat, public highways, rail lines, natural gas fields, gas and fuel pipelines, drinking water pipelines (e.g. Mokelumne Aqueduct) and two deepwater ports.

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As the DLIS is developed, risk to the State resulting from failure of Delta levees due to floods, earthquakes, subsidence, dry weather failures, or climate change must be analyzed. Using even the most modest (and observed) estimates for future sea-level rise, many Delta levees would require improvement to address the higher daily and flood event water surface elevations. In addition to the strategy itself, the DLIS must take into account the State's significant investments already made in public infrastructure in the Delta. Levee failures would not only create direct damage, but also potentially change the configuration of the Delta, altering the ability to repair existing infrastructure and affect the mixing of fresh water with salt water.

As the DLIS is developed, it is imperative that strategies that reduce overall State liability are considered as preferred options. Specifically, the DLIS should focus on reduction of known flood risks, analyze what residual risks will remain after implementation, seek to reduce any residual risks, and ensure no new risks are created by implementation of the DLIS. Cost to the State must also be considered, and specific consideration must be given to the existing Delta Subventions Program, which has invested hundreds of millions in Delta levees over the years, with demonstrated success.

Jurisdiction. The DLIS should discuss the existing legal and contractual obligations of the State and utilize the Board's regulatory authority to manage the SPFC and Delta levees.

The Board has broad authority over the SPFC, as well as designated floodways and the regulated streams contained in Table 8.1 in Title 23, CCR, many of which are located in the Delta. The Board also holds title to real property through the Sacramento-San Joaquin Drainage District. The Board currently manages several programs, including:

- a. The Delta Subventions Program, including annual budget allocations, procedures and criteria;
- b. Issuing permits for encroachments or activities on or around the SPFC;
- c. Ordering removal of unpermitted or illegal encroachments on or around the SPFC;
- d. Serving as the non-federal sponsor for levee improvement projects requiring review by U.S. Army Corps of Engineers (USACE) pursuant to 33 USC 408 (Section 408 review);
- e. Issuing permits for projects on, under or near regulated streams (Table 8.1 in Title 23, CCR) and designated floodways.

Opportunities to incorporate these existing programs into the DLIS, utilizing existing authorities and resources, will be of primary importance to the Board.

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Summary

This general guidance addresses broad themes of import to the Board and will be utilized by Board staff to guide discussions and comments as the DLIS is developed. As the need arises, specific drafts of the DLIS, policy questions not considered here, and other items of import that arise throughout the process will be brought back for Board consideration and/or action.