Delta Levees Maintenance Subventions Revised Draft 2015 Guidelines - Comments					4/28/2016
No.	Source	Article	Page	Comment	Response
1	DSC	General	1	Rehabilitation activities funded under the Subventions Program include activities that may have significant impacts on the achievement of the State's coequal goals for the Delta or implementation of a government-sponsored flood control program, and as such may be considered 'covered actions' subject to Delta Plan regulations. We would like to offer our assistance to your agency and eligible local agencies in determining whether the proposed activity meets the statutory definition of a covered action and, as such, would require a certification of consistency.	Each Delta Reclamation District (RD) is responsible for the operation, maintenance, repair and restoration of their specific levees. While much of the work is specifically exempt from the Delta Plan, some work could be a covered action. As each RD independently contracts with DWR, it is up to them to comply with appropriate provision of the Delta Plan. Detailed information on covered actions is included in the work agreements. CA Water Code §85057.5(b) Covered action does not include any of the following: (5) Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency.
2	DSC	4	17	Article states that payment through the Subventions Program must be consistent with Water Code section 12986(c). The same information should be mentioned under 'Section 2.1 - Eligibility, Submission, and Approval of Plans' to ensure local agencies are aware that their proposed activities need to be consistent with the delta Plan if they are to be eligible for Subventions Program funding.	Added Article 2(e) -" Plans should reflect the priorities of, and be consistent with, the Delta Plan, CA Water Code §12986(c)."
3	DSC	General		Include the following language where appropriate, as a reminder for the lead agency carrying out the project: "Note to CEQA Lead Agencies regarding consistency with the Delta Plan. If the proposed project will occur in whole or part in the Delta, you should determine if it meets the definition of a "covered action" under the Water Code Section 85057.5 and 23 California Code of Regulations Section 5001(j). If the project is a covered action, prior to commencing implementation, you must file with the Delta Stewardship Council a certification demonstrating consistency with the regulatory policies of the Delta Plan. (For additional information regarding the Certificate of Consistency and the Covered Action process, please visit the Delta Stewardship Council's website: http://deltacouncil.ca.gov/covered-actions	Detailed information on covered actions is included in the work agreements. CA Water Code §85057.5(b) Covered action does not include any of the following: (5) Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency.
4	DSC	Program Overview	1	Information about the Delta Levee Investment Strategy should be included in the "Program Overview" section of the guidelines. The Guidelines should clearly state the roles and responsibilities of DWR through the Subventions Program, and include records of DWR's current and past funding decisions as supporting documentation. This information will assist local agencies in determining consistency with the Delta Plan, if the proposed project is a covered action.	In as much as the Delta Levee Investment Strategy is still a draft, it would be inappropriate to include at this time. This issue may be revisited in the future.
5	DSC	General	n/a	Consider creating a publicly accessible database, utilizing existing programs (e.g., Delta Knowledge Improvements Program), to store, maintain, and access documents that contain valuable and updated information pertinent to Delta Levees.	Delta Levees Subventions data is publicly accessible from California's Natural Resources Agency Bond Accountablity website (http://bondaccountability.resources.ca.gov/) and the Delta Levees Subventions website (http://www.water.ca.gov/floodsafe/fessro/deltalevees/subventions/)
6	DSC	General	n/a	Consider regularly releasing expenditure information and the status of each working agreement in progress. This action will not only help answer questions from interested groups, but also strengthen the credibility of government sponsored flood control programs.	Subventions Program participation and expenditures are available on the Delta Levees Maintenance Subventions website. Program updates are reported to the public monthly at the Delta Levees Habitat Advisory Committee and annually to the Central Valley Flood Protection Board.
7	DSC	General	n/a	Consider working with CDFW staff to implement recommendations of the Levee-Related Habitat Review (LRHR) recently released by DSC staff. It includes recommendations regarding mitigation of levee projects impacts on native species and their habitat. The LRHR recommends that mitigation of impacts to channel margin habitat should be mitigated on-site to the fullest extent possible to ensure in-kind mitigation. http://deltacouncil.ca.gov/sites/default/files/2015/10/15-1015_draft_Delta_Levee_Related_Habitat_Review.pdf	In as much as the Levee-Related Habitat Review is still a draft, it would be inappropriate to include at this time. This issue may be revisited in the future. In compliance with the current MOU, CDFW is the final dedision maker of appropiate mitigation for programmatic impacts. The Subventions Program continues to work closely and collaboratively with CDFW.
8	DSC	General	n/a	Council staff welcomes any opportunity to coordinate with DWR staff during the process of updating the guidelines. Contact You Chen (Tim) Chao at YouChen.Chao@deltacouncil.ca.gov or Daniel Huang at	Noted.
9	GEI	Program Overview	1	Talks about $400 million investment in both Subventions and Special Projects. Recommend focusing on the Subventions Program and State investment to date.	Program Overview amended to read -"The Delta Levees Maintenance Subventions Program (Subventions Program) has been dedicated to maintaining and helping to manage the aging levees in the Sacramento – San Joaquin Delta (Delta) for over 40 years. Since the passage of SB 541 (Way Bill) in 1973, California Department of Water Resources (DWR) has invested over $180 million in flood control and habitat projects carried out by local agencies in the Delta through the Subventions Program. The Disaster Preparedness and Flood Prevention Bond Act of 2006 (Proposition 1E), the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006 (Proposition 84) and the Water Quality, Supply, and Infrastructure Improvement Act of 2014 (Proposition 1), have all required DWR to provide local assistance under the Subventions Program to fund activities that reduce the risk of levee failure and flooding in the Delta and do not result in a net long-term loss of riparian, fisheries, or wildlife habitat (CA Water Code §12987(c)). The Subventions Program is a cost-share program that provides technical and financial assistance to local agencies in the Delta for the maintenance and rehabilitation of nonproject and eligible project levees. The Subventions Program is authorized by CA Water Code § 12980 et seq., and is managed by the DWR for the Central Valley Flood Protection Board (CVFPB). CVFPB reviews and approves the DWR recommendations and enters into funding agreements with local agencies to reimburse eligible costs of levee maintenance and rehabilitation. Under CA Water Code §12987(d), the Subventions Program ensures that expenditures are consistent with a net long-term habitat improvement program and has a net benefit for aquatic species in the Delta."
10	GEI	1	3	Add definitions for “agricultural” and “urban” development/district and organize the definitions alphabetically.	Noted. Agricultural development/district and urban development/district are not terms used in these Guidelines. Definitions have been alphabetized.

No.	Source	Article	Page	Comment	Response
11	GEI	3	11	Section 3.1(j): suggest changing “urban development” to “urban Delta district” to avoid any confusions with the term “urban” used in Senate Bill 5.	Noted
12	GEI	3	12	Section 3.1(n): change “Game” to “Wildlife”	"Game" used in the code title
13	GEI	3	15	Section 3.9(c): CDFW satisfaction of avoidance and minimization measures based on prior discussions is very subjective. This should be tied in to some type of performance measures and criteria based on initial impact assessment. Also, $60,000 is just a number, suggest changing it to a percent of total project cost, e.g. 15 percent.	Noted
14	GEI	4	21	Section 4.9(a)(2): establishing 500 feet from the landside levee toe for on-island borrow excavation seems too restrictive. A typical levee in the Delta is no more than 25 feet in height, which means the landside toe is 90 feet from the levee centerline assuming a 3:1 slope and 30 feet crest width. Or 140 feet from the levee centerline assuming a 5:1 slope. In any case 300 feet from the landside toe is sufficient to avoid intercepting the projected landside slope if the excavation occurs to 20 feet below the ground surface.	Exisiting 2011 Guideline language for Article 4.9 (a)(2) to remain unchanged. The excavation of such material shall be limited to sites at least 400 feet from the land side toe of any flood control levee. An exception to this limitation will be made in cases where material has been stockpiled immediately adjacent to the levee or a geotechnical evaluation is performed by a certified Geotechnical Engineer demonstrating no effect to the levee;
15	GEI	5.2	27	Section 5.2(b)(22): again, $60,000 is just a number, suggest changing it to a percent of total project cost, e.g. 15 percent.	Noted
16	GEI	6	29-30	Suggest considering sheet piling and flood walls for “urban districts” when appropriate (that is allowable under Bulletin 192-82).	Noted.
17	KSN	Program Overview	1	Paragraph 3, duplicate language: "of the passage"	See response to comment #9
18	KSN	Program Overview	1	Paragraph 3: These are subventions program guidelines not special projects. Consider including subventions numbers, not special projects numbers. Also, consider mentioning district cost share.	See response to comment #9
19	KSN	1	3	Definition of Force Account: Perhaps define as applied to the program wherein District forces are used? This definition could apply to contract/bid work as written.	Noted
20	KSN	1	4	HMP: Replace the word 'standard' with 'criteria'.	Standards amended to geometry
21	KSN	1	4	Primary Zone: Map does not have boundaries that are surveyed or recorded..."cartoon map" same problem with Delta Atlas both maps are adopted by legislature, but not defendable in terms of boundaries or survey law. could lead to dispute. (Side note: We should seek to update the map reference as there is better mapping available and possibly include levees that were unintentionally left off the map. This is a side project, and if accomplished, would require this reference to be updated.)	Noted
22	KSN	2	7	2.1 paragraph 4: Need definition for 'net long term loss'.	From CWC § 12987(c) The Department of Fish and Game shall not approve any plan which calls for the use of channel islands or berms with significant riparian communities as borrow sites for levee repair material, unless fully mitigated, or any plans which will result in a net long-term loss of riparian, fisheries, or wildlife habitat.
23	KSN	2	7	2.2(b): Change 'standards' to 'criteria'.	Standards amended to geometry
24	KSN	2	7	2.2(d): new language. Why is annual maintenance under long range plans? Long range plans are typically associated with rehabilitation work, which is considered major improvements, not routine maintenance.	Article 2.2(d) - Long range plan cost estimates for annual routine maintenance are necessary for planning long range maintenance activities.
25	KSN	2	7	2.2(e): old item e was relative to HMP schedule. The paragraph is now primarily cost estimate for rehab, mitigation and enhancement. Raises the question of enhancement. Who pays? Enhancement has historically been performed by the program, not individual districts. Enhancement is a statewide benefit and has no benefit to the local agency.	Noted. Revised Article 2.2(e) clarifies 2011 Guidelines Article 2.2(d). Refer to CA Water Code §12987(c) and (d)
26	KSN	2	8	2.2(f)(2) This is old language and effectively does not really make sense as written. I assume whatever we have been doing meets this requirement, primarily by mapping. Marking on the ground is not a clear definition . This could indicate that you want stationing established in the field, which is logical, however, should not be part of application or planning process. I assume this statement is in reference to the map or are you requiring the districts to establish permanent marking on site...some Districts do not have on the ground paddles or stationing, but typically have located 0+00 points at easily recognizable locations	No Change - Exisiting 2011 Guideline language to remain unchanged. Levee stationing required to identify locations along the levee.
27	KSN	2	8	2.2(f)(3) we provide data from claimed survey work, and typically don't include it in the application.	No Change -Exisiting 2011 Guideline language to remain unchanged.
28	KSN	2	8	2.2(h) Consider the following language instead: 'Specify projected land-use changes, if any'.	Article 2.2(h) Amended to read "Specify projected land-use changes, if any".
29	KSN	2	8	2.2(k) Specify that improvements will be performed programmatically.	Article 2.2(k) Amended to read "A statement affirming the local agency will comply with the net habitat improvement mandates of the CA Water Code 12987."

No.	Source	Article	Page	Comment	Response
30	KSN	3	11	3.1(a)(1) Comment: Is a resolution signed by the board necessary for the application? It adds an additional loop, effort, and expense to the districts. The application is not a contract and should therefore not require a resolution.	Noted - This comment does not relate to section 3.2(a)(1) of these Draft guidelines.
31	KSN	3	11	3.1(i) Consider reverting to the boilerplate old language. Or simplifying the language to say 'total assessments collected annually and total debt because these would provide adequate information if there is a valid reason to request such data.	No Change - Exisiting 2011 Guideline language to remain unchanged.
32	KSN	3	11	3.1(k) Subventions must continue to be flexible on disaster assistance funding. Federal disaster assistance can take many years and the claimed costs will be several years following the time the actual work is performed. Typically, as the disaster claim is prepared, a note goes into the claim information form that outlines the claimed costs in the year that they were claimed, once it is determined that portions of the disaster assistance claim are ineligible, they then become eligible for payment if the costs are otherwise eligible for the program. the costs will not be claimed in the year they occur, but several years later. We should discuss how to properly document this, as well as insure that future payments can be paid. perhaps a reserve account? more discussion required.	Noted
33	KSN	3	12	3.1(l) Consider changing the word 'Evidence' to 'Statement' to be consistent with the following sentence that states that the a statement will suffice as evidence. Also, the proof of CEQA filling occurs after the application time period, generally.	Article 3.1(m) Amended to read "Evidence that the local agency's maintenance and improvement plans are in compliance or consistent with CEQA. This requirement may be satisfied by a statement that the local agency has an approved 1) Categorical Exemption, 2) Negative Declaration, or 3) Environmental Impact Report."
34	KSN	3	12	3.2. Does the 'Application of Easement' apply for new easements or easements to be moved?	Application for Levee Easement Acquisition
35	KSN	3	13	3.6(b) Consider moving this to a new paragraph. The agreement may require a resolution. The resolution is not part of the agreement.	Noted. The request for a resolution moved to Article 3.6 paragraph 2.
36	KSN	3	14	3.7(c)(3) Consider changing 'bidding and contract documentation' to 'pre bidding documentation' most projects can't go to bid without the funding in place.	Noted.
37	KSN	3	15	3.9 Clarify the following statement "Failure to complete habitat and mitigation requirements within the three year period will result in forfeiture of reimbursement under the Subventions Program". Why did the word 'forfeiture' change from 'ineligible for funding'	No Change - Exisiting 2011 Guideline language, Article 3.9(c), to remain unchanged..
38	KSN	3	16	3.11 Last paragraph states that 'Audits and associated costs and work related to the audit process are not eligible for reimbursement'. This is incorrect. These are valid costs. Will take up with rec board.	Direct costs associated with eligible costs are eligible. Audits are not an eligible cost nor are costs associated with audits.
39	KSN	4	17	4.1(e). Consider adding "The Department will notify the applicant of the source of the funding for the program and the applicable regulations that apply to that funding."	Added Article 4.1(f) The program will inform applicants of funding source and funding source requirements in the request for applications and in the work agreement.
40	KSN	4	17	4.1(f) Clarify if the Districts will be allowed to cost share with participants such as EBMUD. As written, it seems like Districts are limited to seek additional funding to perform work.	Article 4.1(h) Amended to read - "The local agency cannot use other state funds to offset or pay for their local cost share. This includes funds dispersed directly or indirectly through another state agency"
41	KSN	4	18	4.2, Priority One, Category 3. Change 'standards' to 'criteria'	Standards amended to geometry
42	KSN	4	19	4.2, Figure 1, Priority 3. Clarify why this category requires approval by the CCVFPB.	To better inform the CVFPB of rehabilitation projects in excess of B192-82
43	KSN	4	19	4.3, paragraph 3. Eligible costs should include direct costs associated with eligible items. e.g. When a district bookkeeper works on compiling subventions claim data, or the time to perform audits which are a direct cost and requirement of the program. Additionally, audit costs should be eligible as they are a program requirement.	See response to comment #38
44	KSN	4	19	4.3, paragraph 4. If a district undertakes enhancement, which is unlikely, then those costs should be funded at 100%	The CA Water Code §12986 states not more than 75% of any eligibile cost incurred in excess $1000 per levee mile shall be reimbursed.
45		4	21	4.9(a)(1) 'licensed by the CVFPB'. Is the CVFPB a licensing agency? Correct or strike out.	This comment does not relate to section 4.9(a)(1) of these Draft guidelines.

No.	Source	Article	Page	Comment	Response
46	KSN	4	21	4.9(a)(2) What is the technical reason for the change from 400 feet to 500 feet from the levee toe for the excavation of borrow material? This is something that is the responsibility of the local engineer to determine, not a blanket statement. There may be locations that are safe to remove material from that are closer to the levee. Given that the State has no liability, the State should not direct design and use parameters. This requirement is arbitrary and unreasonable.	No Change - Exisiting 2011 Guideline language for Article 4.9 (a)(2) to remain unchanged.
47	KSN	4	22	4.9(a)(3) 'prohibiting purchases in which the local agency has financial interest' is probably not correctly stated. It has been through legal review. It is confusing. Perhaps better to leave the reference to 1090, as in the previous guidelines.	No Changed - Exisiting 2011 Guideline language for Article 4.9 (a)(3) to remain unchanged.
48	KSN	4	22	4.9(b)(3) Royalty of $1.00 per cubic yard does not reflect current value.	Noted
49	KSN	4	23	4.11(b) DWR and Delta interests need to lobby legislature to increase this amount ($50,000 per emergency levee site, and $200,000 annual program maximum without prior approval of the plan). The dollar amount is not enough to accomplish anything. These caps are over 20 years old and are insufficient.	Noted
50	KSN	4	23	4.12, paragraph 1. Clarify 'latter application is filed'. Clarify if it is in the year in which the damage occurred, or in the year the claim is made to subventions.	Article 4.12 Amended to read - "The associated costs shall be deemed incurred by the applicant in the year in which the application is filed."
51	KSN	5	25	5.1, paragraph 1. Levee maintenance inspection and inspection reporting for project and non project levees will not happen because the cost is too high. DWR levee reporting is on the order of 5-10,000 for that level of reporting.	Noted
52	KSN	5	26	5.2(b)(2) Clarify why patrol logs should have temperature recordings	This comment does not relate to Article 5.2(b)(2) of these Draft guidelines.
53	KSN	5	26	5.2(b)(5) A critical issue has been left out. The replacement of paved roads needs to be eligible if county doesn't pay, which they don't currently. The program needs to fund all asphalt road replacement associated with a project	The Subventions Program is authorized to provide local assistance to reduce the risk of levee failure and flooding in the Delta. Transportation costs are not authorized in the programs legal mandate.
54	KSN	5	26	5.2(b)(7) 'small sections' is ambiguous. Consider removing it.	Article 5.2(b)(8) Amended to read - "Control of seepage and boils, including installation of sections of impervious cores in the levee section;"
55	KSN	5	26	5.2(b)(11) The federal agency may be responsible for the repair and restocking of rock protection, but they rarely fulfil that role, and the responsibility falls on the local agency. Consider removing the reference to the federal agency as it is old language and unnecessary.	Noted
56	KSN	5	26	5.2(b)(11) Consider removing the word 'minor' at the beginning of the bullet. It is ambiguous and undefined.	Article 5.2(b)(11) Amended to read - "Repairing or restoring rock protection except where such repairs are the responsibility of a federal agency; • Repairs can be made in cases of federal responsibility, if the appropriate federal agency does not perform these repairs expeditiously."
57	KSN	5	26	5.2(b)(13), bullet 1. Repair and replacement of existing encroachments required to perform levee repair and maintenance. This needs work. while it is recognized that replacement of landscaping and decks is not desired, often there are other structures that need removal and replacement, like city chain link fences, that do need to be removed to fix the levee and then replaced. Perhaps a case by case could work, but fear is everything will be denied, which shouldn't be the goal either.	Noted. Local Agencies are encouraged to get prior approval when incurring encroachment cost.
58	KSN	5	26	5.2(13), bullet 3. 100% of district engineering is eligible for reimbursement. The engineering is required to insure installation is safe and in compliance. 50% of the cost of pipe/plumbing as in previous versions, however, fill material should be 100% eligible. Consider adding the following sentence: 'If flood control benefit costs are clearly delineated from landowner benefit costs, then 100% of flood control benefit costs would be eligible.'	Noted
59	KSN	5	26	5.2(14) Clarify. Is ambiguous as written. Either specify, or don't, but don't make it a gray area.	Article 5.2(14) Amended to read - "Levee profile and cross section surveys;"
60	KSN	5	26	5.2(16). Consider adding that program audits are included in associated administrative work. 'Engineering services and associated administrative work including program audits…'	Audits are not an eligible cost nor are costs associated with audits are not eligible.
61	KSN	5	27	5.2(19) Consider adding 'construction and maintenance of toe drains and culverts' to items that are eligible for reimbursement.	This comment does not relate to Article 5.2(16) of these Draft guidelines.
62	KSN	5	27	5.2(22) Question: How was it decided that $60,000 is the maximum cost of mitigation that may be cost-shared?	Derived from historical program mitigation costs.

No.	Source	Article	Page	Comment	Response
63	KSN	6	29	6(a)(3) A critical issue has been left out. Replacement of paved roads needs to be eligible if the county doesn't pay, which they don't now, the program needs to fund all asphalt road replacement associated with a project. Replacement of roads should be allowed under maintenance section.	The Subventions Program is authorized to provide local assistance to reduce the risk of levee failure and flooding in the Delta. Transportation costs are not authorized in the programs legal mandate.
64	KSN	6	29	6(c)(5) bullet 2. A critical issue. If county doesn't pay, which they don't now, the program needs to fund all asphalt road replacement associated with a project also, not just an upgrade, any repair that requires replacement of road surface.	The Subventions Program is authorized to provide local assistance to reduce the risk of levee failure and flooding in the Delta. Transportation costs are not authorized in the programs legal mandate.
65	KSN	Appendix A-1	n/a	Appendix A(a)Change the word 'Standards' to 'Criteria'. HMP is not a standard.	HMP standards amended to geometry
66	NOM	2	8	2.2(f)(2) Marking on the ground is difficult to maintain and expensive particularly where the public has access. An alternative should be added to allow stationing with GPS Latitude and Longitude designation at one-half mile or 2,500 foot intervals.	No Change - Exisiting 2011 Guideline language to remain unchanged. For long range plans, GPS is acceptable in addition to hard on ground markings.
67	NOM	2	9	2.4, First Paragraph: The requirement of showing on an engineering drawing details of vegetation, wildlife or fisheries habitat within the work area and any avoidance, etc. is the wrong approach. The language should be changed to read: The Rehabilitation Plan should be accompanied by an environmental assessment of the work area or an equivalent explanation of the vegetation, wildlife or fisheries habitat within the work area that may be disturbed or removed and any proposed avoidance, re-vegetation or mitigation measures the local agency will take. Representative photos should be included.	Article 2.4 amended to read - "Levee Rehabilitation plans shall cover work to be performed on a fiscal year (July 1 to June 30) basis. The Levee Rehabilitation Plan shall be shown on an engineering drawing. The Levee Rehabilitation Plan shall be accompanied by an explanation of the vegetation, wildlife or fisheries habitat within the work area that may be disturbed or removed and any proposed avoidance, re-vegetation or mitigation measures the local agency will implement. Representatve photos should be included. Definition also amended.
68	NOM	4	22	4.9 (a)(3) and (b)(3): Government Code section 1090 is in numerous cases a hindrance to utilization of on-island borrow which could in appropriate cases result in substantial cost savings to the local agency and the State and result in no significant harm. The addition of Government Code section 1091.5 (14) may be helpful. An alternative should be considered which would allow a credit to the local agency cost share of a dollar per cubic yard without the necessity of a payment to the landowner or owner of material.	Noted
69	NOM	4	22	4.9 (b)(2): If no royalty or credit is provided, the eligible costs should include loading and leveling of the borrow area to a farmable condition.	Noted
70	NOM	5	26	5.2(b)(3): "and or grouting" should be added after material. Chasing squirrel and other rodent holes with an excavator to allow for placement of compacted material in many cases would require demolition and reconstruction of the levee section. Grouting is the only practical alternative for many squirrel and gopher holes.	Noted.
71	NOM	5	26	5.2(b)(13): For all work within the levee section the seventy-five (75) percent cost share should apply. The fifty (50) percent should be limited to the portion outside the levee section and even that should be seventy-five (75) percent cost share. Dealing with encroachments is always difficult and usually requires some interference with the owner's operations and related facilities. Greater rather than less incentive to get the job done correctly is a better approach.	Noted. The Subventions Program does not encourage levee encroachments.
72	NOM	6	29	Article 6(a)(3), (b)(3) and (c)(4): In areas where the crown of the levee is within ten (10) feet of the mean high tide, the eligible crown width should be increased from 16 feet to at least 22 feet. Reducing the impact of slumping beaver dens, the wisdom of providing for two-way truck traffic during the flood emergencies and the desire to provide a base for future raising of the levees to accommodate increasing rates of sea level rise support the need for such increased crown width.	Noted
73	NOM	6	29	Article 6(c)(5): Many of the county roads on the levees are triple chip sealed rather than paved with asphalt. Due to the difficulty in timing of replacement of the chip seal, the aggregate base is subjected to deterioration and inability to restore striping and other safety features. This has led to the need to apply a dust or seal coat to hold the surface until chip sealed. More flexibility should be provided. Where existing public roads are located on the crown of the levee, providing the appropriate crown width and seal coats for safe travel consistent with what was previously in place should be allowed to the extent deemed reasonable DWR.	The Subventions Program is authorized to provide local assistance to reduce the risk of levee failure and flooding in the Delta. Transportation costs are not authorized in the programs legal mandate.

No.	Source	Article	Page	Comment	Response
74	NOM	7	31	et seq. Easements: Acquisition of easements will reduce the amount of the assessment revenues available to support the LMA operations and restricted farming should result in benefits to fish and wildlife. One hundred (I 00) percent, not seventy-five (75) percent of the cost should be reimbursable.	The CA Water Code §12986 states not more than 75% of any eligibile cost incurred in excess $1000 per levee mile shall be reimbursed.
75	NOM	7	31	et seq. Easements: There should also be a process for advanced approval and commitment of funding subject to an acceptable appraisal	Noted. DWR will consider reasonable approaches for the processing of advance approvals and commitment of funds.
76	NOM	7	31	et seq. Easements: State funding should be available for direct deposit into the escrow for acquisition.	Noted. DWR has an agreement with the local agency for reimbursement.
77	NOM	7	31	et seq. Easements: The easement should include as owner's retained rights the right to preclude public access, the hunting and fishing rights and the right to control pests in full compliance with applicable regulations.	Noted. DWR does not dictate the terms of any easement.
78	NOM	7	31	et seq. Easements: The easement program for areas of significant potential for subsidence should merit additional incentives.	The CA Water Code §12986 states not more than 75% of any eligibile cost incurred in excess $1000 per levee mile shall be reimbursed.
79	NOM	7	32	(e)(2) first bullet: Change "deducted" to "dedicated".	Article 7.2(e)(2) Amended to read - "dedicated"
80	GME	Program Overview	1	Paragraph 3. Using the word "aging" when referring to the levees is misleading and implies they are getting old and less useful. The levees are improving. Consider changing the word 'aging' with "maturing".	Noted.
81	GME	Program Overview	1	Paragraph 3. The last sentence indicates that not only shall the local agency mitigate the habitat impacts but also must ensure that it creates in a result of net long term habitat improvement in the Delta". This change from the previous guidelines passes the responsibility to the districts and does not seem consistent with Water Code 12987. More details of the requirements should be presented in the guidelines.	Program Overview updated - Refer to comment #9 response.. CA Water Code § 12987(c) and (d) and 12314(d)
82	GME	Definition s	4	Non project levees. This definition refers to page 38 of DWR's Sacramento-San Joaquin Delta Atlas, dated 1993. Since this publication, important dryland levees that are not shown on the map have been identified. DWR should consider updating this map or providing some language to allow for these important levees to be funded through the subventions program.	Non project levee defined CA Water Code § 12980(e)
83	GME	2	7	2.1(d). Provide more detail about how the districts shall comply with the net habitat improvement.	Reference CA Water Code § 12987(d)
84	GME	2	7	2.2(k). Provide more detail about how the districts shall comply with the net habitat improvement.	Reference CA Water Code § 12987(d)
85	GME	4	16	4.1(f). States that the LMA cannot use other state funds or funds dispersed directly or indirectly through another organization to pay for their local cost share. Prohibiting funding from other sources to be used for subventions work is counterproductive. Some Districts have organizations that see the funds invested in the subventions program as a benefit that encourages their investment.	Article 4.1(h) Amended to read - "The local agency cannot use other state funds to offset or pay for their local cost share. This includes funds dispersed directly or indirectly through other state agencies."
86	GME	4	22	4.9(b)(3) Consider allowing more than $1/cy for a royalty or some wording to allow DWR to discretion as the $1/cy has been never been adjusted for inflation. Clarify that the royalty should go the District if the District is the owner of the material.	Noted
87	CDFW	Program Overview	1	Paragraph 3, last sentence. Consider changing the sentence to read "…but it must also ensure that it results in a net long-term habitat improvement in the Delta.'	Program Overview updated - Refer to comment #9 response.
88	CDFW	Definition s	5	Rehabilitation Plan. Title sounds habitat centric. If it is meant to focus more on habitat mitigation/enhancement, then consider changing it to 'habitat plan' and rewording to: "A local agency's fiscal year goals for levee and vegetation, wildlife or fisheries improvements, as it relates to biological avoidance measures, habitat impacts, mitigation, and enhancement."	Definition Amended to read - "Levee Rehabilitation Plan - A local agency's fiscal year description for implementing levee rehabilitation activities and vegetation, wildlife or fisheries habitat improvements."

No.	Source	Article	Page	Comment	Response
89	CDFW	2	8	2.2(k). Consider changing the sentence to read "A statement the local agency will comply with the net habitat…"	Article 2.2 (k) Amended to read - "A statement affirming the local agency will comply with the net habitat improvement mandates of the CA Water Code § 12987."
90	CDFW	2	9	2.3(c) Consider switching the order of item (b) and (c) as described.	Noted. Switched
91	CDFW	2	9	2.4, paragraph 1, last sentence. Consider changing the sentence to read"…,or mitigation measures the local agency will implement."	Article 2.4 Amended to read -"Levee Rehabilitation plans shall cover work to be performed on a fiscal year (July 1 to June 30) basis. The Levee Rehabilitation Plan shall be shown on an engineering drawing. The Levee Rehabilitation Plan shall be accompanied by an explanation of the vegetation, wildlife or fisheries habitat within the work area that may be disturbed or removed and any proposed avoidance, re-vegetation or mitigation measures the local agency will implement. Representatve photos should be included."
92	CDFW	3	10	3.1(g) Consider changing the sentence to read "A statement of anticipated habitat impacts, including avoidance and minimization measures, to be incorporated into the project; and"	Article 3.1(g) Amended to read - "A statement describing the anticipated habitat impacts, including avoidance and minimization measures to be incorporated into the project and how the local agency will mitigate for all environmental impacts, including the requirements of CA Water Code § 12987, which requires no net long-term loss of habitat through impact avoidance, minimization, and/or mitigation." (moved to Article 3.1(m))
93	CDFW	3	11	3.1 Consider changing (h) to read: "A statement affirming: "The local agency's work activities for the fiscal year of the application will be carried out in a manner consistent with the requirements set forth under CA Water Code § 12987. If habitat impacts occur associated with these activities, the local agency will mitigate the impacts to meet the requirements of CA Water Code § 12987, subject to the approval of CDFW";	Article 3.1(g) Amended to read - "A statement describing the anticipated habitat impacts, including avoidance and minimization measures to be incorporated into the project and how the local agency will mitigate for all environmental impacts, including the requirements of CA Water Code § 12987, which requires no net long-term loss of habitat through impact avoidance, minimization, and/or mitigation." (moved to Article 3.1(m))
94	CDFW	3	11	3.1 Consider adding an item, after (h), to read "A statement that the local agency will comply with the net habitat improvement mandates of the CA Water Code 12987, by requesting to participate in state sponsored habitat improvement projects."	Added Article 3.1(l) "A statement affirming the local agency will comply with the net habitat improvement mandates of the CA Water Code § 12987."
95	CDFW	3	12	3.1(n) Consider changing the last sentence to read "...regarding Lake and Streambed Alteration Agreements;"	Article 3.1(n) Amended to read "...regarding Lake and Streambed Alteration Agreements;"
96	CDFW	3	14	3.7(c)(1) Consider editing the sentence to read "An AB 360 program Advance Payment Form is received in writing by CDFW and DWR;"	Noted.
97	CDFW	3	15	3.7(c)(2) Consider adding an item that reads "A site inspection has been performed, as deemed necessary by CDFW and/or DWR, prior to approval"	Added Article 3.7(c)(2) - "A site inspection has been performed, as deemed necessary by DWR and/or CDFW, prior to approval;"
98	CDFW	3	15	3.9(c) Consider deleting this item. The inspection is meant to cover (b) and (c) is inherently covered by the inspection. CDFW would remove from this section, and leave in section 5.2(b)(22) (pending previous questions/comments related to 5.2(b)(22)).	Article 3.9(c) change to read "For anticipated total mitigation costs greater than $60,000, to confirm the local agency satisfied avoidance and minimization measures for potential impacts, as discussed with CDFW prior to construction (Refer to section 5.2(b)(22))."
99	CDFW	4	16	4.1(d) Clarify if the maintenance and rehabilitation activities are reflective of the priorities of the Delta Plan. Will the DSC be prioritizing levee maintenance needs, or will this continue to be left to the Districts to determine? Will the locals have to get approval for ANY levee project activity, including routine levee maintenance, in order to assure they are eligible for program reimbursement? What will the DSC's approval/certification consist of? This is important to CDFW , to ultimately evaluate if there are any changes to the program itself and/or our responsibility and timing of evaluating impacts/mitigation.	Noted. Article 4.1(d) - Payments through the Delta Levee Maintenance Subventions Program are for maintenance and rehabilitation activities that reflect the priorities of, and are consistent with, the Delta Plan, and the CA Water Code § 12987(c). DWR cannot prescribe the intent of DSC and its actions.
100	CDFW	4	23	4.9(b) Consider adding an item (4) that reads "Biological Assessments/Surveys of borrow sites."	Noted. Considered under engineering expenditures.
101	CDFW	5	27	5.2(b)(20). Consider editing the sentence to read "Maintenance and protection of net habitat improvement sites…"	Noted.
102	CDFW	5	27	5.2(b)(21) Consider editing the sentence to read "Management, maintenance, and protection of mitigation sites resulting from levee work…"	Noted.
103	CDFW		27	5.2(b)(22) If the statement related to mitigation dollar amounts/thresholds is made, consider incorporating it within the section discussing rehabilitation (or in both the maintenance and rehabilitation sections). Most of the larger impacts that occur are typically associated with larger levee rehabilitation projects as opposed to levee maintenance.	Noted. Article 6 amended to include "(d) All eligible mitigation costs may be considered for cost-share reimbursement. Total mitigation of up to $60,000 may be cost-shared without prior CDFW approval. Any eligible mitigation costs in excess of $60,000 may be reimbursed if the local agency provides documentation that it has engaged with CDFW in a pre-project consultation regarding minimization and avoidance measures, and CDFW has provided the local agency with a written estimate of the mitigation obligations that would ensue as a result of the proposed project work. Prior CDFW approval is not required for emergency response. "
104	CDFW	Appendix B.2	n/a	Consider adding to the title "(Form available upon request by CDFW)"	Noted. Footnote to Appendix B.2

No.	Source	Article	Page	Comment	Response
105	CDFW	Appendix	n/a	Consider adding a statement within the guidelines that addresses proper reporting of herbicide use and adding an appendix item of a form they can use to record this data. (form is in this folder and titled 'Subventions Monthly Herbicide Use Report')	Noted
106	DWR AP	Program Overview	1	Paragraph 3, sentence 7. Consider editing the sentence to read "...funding has been dedicated to maintaining and improving aging Delta Levees."	See response to comment #9
107	DWR AP	Program Overview	1	Paragraph 3, sentence 8. Consider editing the sentence to read"...the Subventions Program ensures that local agencies not…"	See response to comment #9
108	DWR AP	Program Overview	1	Paragraph 3, sentence 9. Consider editing the sentence to read "...habitat impacts of each maintenance application it funds, but must also…"	See response to comment #9
109	DWR AP	Program Overview	1	Paragraph 3, sentence 10. Consider editing the sentence to read "...ensure that the proposed expenditures are consistent with net long-term habitat improvement and net benefit for aquatic species in the delta.	See response to comment #9
110	DWR AP	Definition s	5	Secondary Zone. Consider editing the sentence to read "Area to which the resources management plan applies…"	Noted
111	DWR AP	Definition s	4	Consider editing the word 'noproject' to 'non-project' throughout the document.	Noted
112	DWR AP	2	7	2.1. Sentence 1. Consider adding a hyphen to the word non project. 'non-project'	Noted
113	DWR AP	2	7	2.2(b) Consider editing the last sentence to read "...applicable standards] *and method for contributing to no net habitat loss and net habitat improvement* .);	Noted