



Delta Counties Coalition

Contra Costa County · Sacramento County · San Joaquin County · Solano County · Yolo County

"Working together on water and Delta issues"

April 21, 2017

Randy Fiorini, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: April 27-28, 2017 Delta Stewardship Council Meeting - Amendments to the Delta Plan

Dear Chair Fiorini and Members of the Council:

The Delta Counties Coalition (DCC), comprised of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo counties, reviewed the Notice of Preparation (NOP) for a Draft Program Environmental Impact Report (Program EIR) for the proposed Delta Plan amendments that cover: (1) Delta Levee Investment and Risk Reduction Strategies, (2) Delta Conveyance, Storage and Operations, and (3) Performance Measures. The DCC respectfully requests the Council's consideration of the comments below as it develops the Delta Plan amendments and the Program EIR.

While the California Environmental Quality Act sets forth the legal requirements by which the Council must evaluate potential environmental impacts, it is the Trial Court's May 2016 ruling that truly drives the need for the proposed Delta Plan amendments related to topics (2) and (3) above. The California Water Code is clear in its directive that coequal goals for the Delta to provide a more reliable water supply for the state, while protecting the Delta's ecosystem, "shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

The Council acknowledges in the NOP that the definition of coequal goals includes "Delta as an evolving place;" however, the 19 Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals (as adopted by the Council in November of 2015) do not directly address protections for Delta communities and their unique cultural values as provided for in law. To continue to use the 19 Principles to guide the Council's views on conveyance, storage, and operations is a fatal flaw; therefore, the DCC strongly urges the Council to commit to the coequal goals of the Delta in the entirety of its statutory definition. This course correction is necessary to develop any Delta Plan amendments that are consistent with the statute.

The 19 Principles also do not recognize senior water rights and the promise that the areas of California where the water originates shall not be deprived of the prior right to all water reasonably required to meet the needs of the watershed (Water Code § 11460). These two major cornerstones of California water law are critical to determine how much water can be exported from the Delta.

The DCC is also concerned that the 19 Principles and the information contained in the NOP seem to pre-determine that the California WaterFix is the preferred conveyance solution for the Delta. This approach is especially troubling because it appears that the Council prematurely promotes the WaterFix despite impacts to other legal users of water. These potential impacts have come to light in the testimony provided by multiple parties in the State Water Resources Control Board's Change in Point of Diversion Hearings.

The WaterFix, as proposed as a standalone project, does not satisfy the criteria outlined in the Delta Reform Act for automatic incorporation into the Delta Plan. The DCC agrees with Council staff's assertion that the WaterFix is subject to the Delta Plan covered action consistency certification process. The DCC strongly urges the Council to commit to the coequal goals of the Delta in the entirety of its statutory definition and make the appropriate Delta Plan amendment course corrections.

Furthermore, the Trial Court was clear in its ruling to uphold the Council's authority beyond the boundaries of the legal Delta and to reduce reliance on the Delta for water supply reliability consistent with the coequal goals (Water Code § 85021). To lessen the impact of reduced water supplies, the DCC supports Council's direction for investments for above- and below-ground water storage, improved regional and local supply projects, water conservation, recycling, desalinization, and other advanced water technologies that address water supply and water management priorities for the state.

The DCC supports a comprehensive approach that 1) takes a broader view rather than promote the WaterFix and disregard other statutory protections for the Delta and senior water rights holders, 2) incorporates all statutory requirements to be included in the Delta Plan, and 3) includes programs to develop new water, such as wastewater reuse, storm water capture, desalination, and appropriate surface and groundwater storage. The Council, which is in its seventh year of having policy and regulatory oversight in the Delta and Suisun Marsh, is well-

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positioned to move state water policy and Delta management forward in a productive, sustainable way, and we look forward to working with you on these important considerations.

Sincerely,



Don Nottoli
Supervisor, Sacramento County



John M. Vasquez
Supervisor, Solano County



Karen Mitchoff
Supervisor, Contra Costa
County



Jim Provenza
Supervisor, Yolo County



Chuck Winn
Supervisor, San Joaquin County