



Friends of the River  
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Sacramento, CA 95811

May 24, 2017

Delta Stewardship Council Members and Staff **via Email**

**Re: Failure to Accurately Address Public Opposition to adoption at this time of a Delta Plan Amendment on Conveyance, Storage, and Operations of Both, Agenda Item 10, May 25, 2017 Delta Stewardship Council Meeting**

Dear Delta Stewardship Council Chair Fiorini, Council Members and Staff:

The subjects our 9 public interest organizations address to you in this letter are absence of trust, and failure to adequately engage with the public comments.<sup>1</sup> These comments apply to Agenda Item 10 at the Delta Stewardship Council (DSC) meeting coming up on May 25, 2017,

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<sup>1</sup> AquAlliance, California Water Impact Network, California Sportfishing Protection Alliance, Environmental Justice Coalition for Water, Environmental Water Caucus, Friends of the River, Planning and Conservation League, Restore the Delta, and Sierra Club California join in this letter.

Discussion of Draft Amendment of Delta Plan Revisions for Conveyance, Storage Systems, and the Operation of Both (CSO).

The DSC Summary of the April 27, 2017 DSC meeting noted that “there is not trust.” (DSC Agenda Item 5, Meeting Summary, p. 17). The DSC Information Item for Agenda Item 10 explains with respect to Panel 2, examining the effects of the proposed amendment, that “panelists will discuss how recommendations in the proposed amendment address issues such as trust, . . .” (DSC Information Item, p. 6).

At the April 27 DSC meeting, Council Member Johnston “suggested additional meetings in order to adequately engage with all of the material and the public comments.” (DSC Agenda Item 5, Meeting Summary, p. 20).

DSC Staff has produced Attachment 4 for Agenda Item 10, identified as “Summary of Public Comments on the Revised Discussion Draft of Proposed Delta Plan Amendment” on CSO from the April 28, 2017 DSC meeting. This four-page document appears deliberately designed to avoid meeting or even accurately describing the thrust of the overwhelming public comment from the large crowds attending the DSC meetings in Brentwood in March, and Sacramento in April as well as written comment. It was unanimous from the public in Brentwood and also from the public in Sacramento with the exception of the DWR representative, that the DSC not go forward with an amendment on conveyance, storage, and operations at this time.

The DSC Summary also seeks to dismiss many of the comments as being “related to the California Water Fix project. . . rather than on the discussion draft Delta Plan amendment addressing water conveyance, . . .” (DSC Agenda Item 10, Attachment 4, pp. 1, 3).

This does not adequately engage public comments. This sheds light on why there is lack of trust. The public knows that the only reason the DSC is attempting to go forward now with a Plan amendment on conveyance is because someone-- governor, DWR, and/or the exporters-- wants help now in carrying out their Water Fix project. There is no rational reason to do the plumbing before the planning. The people know that.

The DSC Summary dismissively mentions that “A commenter recommended that the Delta Plan be revised and considered as a whole, rather than in parts.” (DSC Agenda Item 10, Attachment 4, p. 3). That sounds like only one person from the public made that suggestion. In fact, Council Member Thomson raised the issue at the Brentwood meeting, why is the conveyance portion of the plan being developed separately instead of developing all portions as part of one plan? And that has been virtually the unanimous sentiment of the large crowds attending the March and April DSC meetings. Chair Fiorini has explained to the public that they need not repeat comments made by others. In all of the pages produced by DSC Staff and posted a few days before the upcoming meeting, there is no discussion of *why* develop the conveyance portion of the plan separately instead of developing all portions as part of one plan. *Why* the rush to adopt the Plan amendment in June unless the DSC is trying to do what someone wants it to do?

As we have explained before, the Trial Court Order that the DSC materials continue to ignore, and the Delta Reform Act (DRA), require “quantified or otherwise measurable targets associated with achieving reduced reliance on the Delta” and “restoring more natural flows.”<sup>2</sup> The public knows that setting those targets is what the DSC is supposed to be doing now. Again, in all the DSC materials, there is no discussion of *why* the required targets are not being set *before* attempting to adopt dual conveyance as the promoted option and preferred alternative. The public knows that the Plan amendment puts the cart before the horse by preferring dual conveyance *before* finding out whether there would be sufficient water to restore the Delta while taking away enormous quantities of freshwater flows upstream from the Delta.

As we have explained before, DRA (Water Code) § 85320(b)(2) subsection A requires the determination of “the flows necessary for recovering the Delta ecosystem and restoring fisheries.” In turn, that “will identify the remaining water available for export and other beneficial uses.” Maintaining through-Delta conveyance is a mandatory alternative under DRA (Water Code) § 85320(b)(2)B. The public knows that the lawful and intelligent starting point is to first determine the flows necessary to recover the Delta ecosystem and restore fisheries, and then identify the remaining water available for export. Yet again, there is no discussion in all the DSC pages of *why* this work is not being done *before* attempting to favor dual conveyance. The public knows that the Plan amendment puts the cart before the horse by preferring dual conveyance before doing the work required by the DRA.

If the DSC wishes to restore public trust and adequately engage the public comments, it will be necessary for the DSC to prepare accurate materials summarizing the thrust of public comments. Such materials would accurately and honestly inform that the public comment focused on the Delta is that a plan amendment on conveyance should not be adopted at this time. The materials would further inform that the comment is that all portions of the Delta Plan should be revised at the same time instead of separately adopting a plan amendment on conveyance at this time. In addition, the materials would inform that public comment is that before attempting to address conveyance, the DSC needs to set quantified or otherwise measurable targets associated with achieving reduced Delta reliance and restoring more natural flows. In addition, the DSC, needs to first determine the flows necessary for recovering the Delta ecosystem and restoring fisheries in order to identify the remaining water available for export. The overwhelming thrust of the public comment is that these tasks be accomplished by the DSC, *before* the DSC considers a Delta Plan amendment pertaining to conveyance, storage, and operations of both.

These are the critical issues that need to be addressed in DSC materials and in future DSC meetings. As has been said before, conveyance is the last, not the first, thing to be addressed in Delta planning. Facts first, then conclusions. Not the other way around like the public has been seeing so far. Having governments of laws not rulers, the public expects the DSC to comply with the DRA and the Court Order, before trying to promote dual conveyance and make that the preferred alternative.

Sincerely,

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<sup>2</sup> Explained in detail in our April 24, 2017 letter (p. 5) to the DSC.



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