

(Sent via email)

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Randy Fiorini, Chair  
Delta Stewardship Council  
Sacramento, Ca.

September 28, 2016

Re: DSC Agenda Item #10, Sept. 29, 2016

Dear Chair, Fiorini:

Thank you for the opportunity to review and comment on the subject agenda item (#10, September 29, 2016):

**Proposed Amendments to Calif. Code of Regulations, Title 23, Section 5001(dd)(3) and Delta Plan Water Reliability Recommendation 15**

I would like to offer these comments on behalf of a number of my clients located in northern California. They are all public water agencies, water districts or public utility districts located within the American River Watershed, the Mokelumne River Watershed, the Calaveras River Watershed, the Little John Creek Watershed, the Stanislaus River Watershed and the San Joaquin River Watershed. These are all San Francisco Bay-Delta tributary watersheds. These agencies hold senior water rights, Federal Energy Regulatory Commission licenses, and own and operate reservoirs, powerhouses, water conveyance, treatment and distribution systems as well as wastewater systems.

I have previously offered oral comments regarding the current proposal suggesting a course of action, which comports with the present staff recommendation. We support the proposed finding that a 1-year (or less) water transfer as not having a significant impact for the purpose of determining whether a project meets the determination of a covered action under section 5001(j)(1)(D) of the Delta Plan regulations.

We also agree with the suggested revision to Delta Plan WR R15 that would encourage DWR, SWRCB and DF&W to memorialize certain interagency procedures adopted on a temporary basis during the recent drought conditions.

*“Enhanced Interagency Cooperation, Review and Reporting of Cross-Delta Water Transfers Improve Water Transfer Procedures (WR R15). The California Department of Water Resources and the State Water Resources Control Board in coordination with the California Department of Fish and Wildlife, should memorialize in writing by December 31, 2016, procedures that build upon **and make routine** (emphasis added), the drought-related, enhanced level of interagency cooperation and review of proposed cross-Delta water transfers. The procedures should promote increase efficiency and flexibility, while ensuring the following: (1) the protection of water rights and environmental resources; and (2) transparency and accountability, including sharing of relevant information and standardizing public reporting on cross-Delta water transfers.”*

We do have one suggestion regarding this interagency cooperation in procedures as it relates to the Delta Plan and cross-Delta water transfers. We suggest that the three agencies jointly prepare and submit a report to the DSC after a 5-year period of time during which the procedures have been implemented so that the DSC may gauge the improvements to the cross-Delta transfer process and in particular how the agencies have been able to “make routine” said transfers.

We also wish to point out that one of the primary reasons to use one-year transfers is due to the uncertainty of the pumping window for south-of-Delta transfers. As the Delta Plan is implemented and as it begins to improve the condition and trend of the Delta ecosystem, and a more predictable, expanded, pumping window (as envisioned in the “coequal goals”), a more predictable future-planning horizon will be evident and that should create more transfers within a long-term configuration.

Therefore, while we understand the critics of short-term transfers, we believe their concerns about significant effects are without substance in the record. Furthermore a more prudent approach to planning calls on responsible parties to focus on the Delta Plan, its implementation, and the achievement of the coequal goals as a short-term priority that will yield long-term dividends.

Sincerely,

*John S. Mills*

John S. Mills

Cc: Ms. Jessica Pearson, Executive Director, DSC  
Mr. Dan Ray, Chief Deputy Executive Officer, DSC  
Ms. Bethany Pane, Esq. Acting Chief Counsel, DSC