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DELTA STEWARDSHIP COUNCIL

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September 29, 2011

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Mr. Terry L. Erlewine, General Manager
State Water Contractors
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Dear Mr. Nelson and Mr. Erlewine,

Thank you very much for your interesting letter on August 24. I found the letter helpful although a bit puzzling.

As you state, the Delta Stewardship Council "has a rare opportunity to counter the misinformation and folklore that surrounds Delta discussions..." We agree. It is the lack of clear information about the problems and opportunities facing the Delta that has contributed to so many decades of dispute over the right actions for the Delta's future.

The California Legislature created the Delta Stewardship Council to play a synthesizing and coordinating role among the many agencies and interest groups who have a stake in the Delta's future, as well as to develop an enforceable plan to achieve the coequal goals of a protected and restored Delta ecosystem and statewide water supply reliability. **The coequal goals go together; they are linked and cannot be addressed in isolation.**

Over the past year, the Delta Stewardship Council has publicly circulated and updated five versions of the draft Delta Plan, with two more to come, which have increasingly incorporated revisions from you and many other stakeholders.

Turning to your objections, you have three key points:

1. You object to the statement in the 5th Draft Delta Plan that "More water is exported by the SWP and CVP in average or dry years than in wet years." (5th Draft, p. 75, line 36). Instead, you argue that we should look at the export records over the last five-year cycle of drought and high water for a more accurate figure.

As you know, the Delta Plan relied upon the 2009 California Water Plan Update (published by the California Department of Water Resources (DWR) in 2010) which used the two representative years (2003 and 2006) to make its point, rather than accepting your suggested approach.

Reflection on your letter suggests that perhaps the Delta Council and the State Water Contractors might both be better off to agree that the entire history of Central Valley Project and State Water Project exports from the Delta should be the measure for public discussion.

Accordingly, I asked our staff to prepare some charts showing total Delta exports from 1968 to 2010, and then separate charts for wet, average, and dry water years. The trend line is clear: total water exports from the Delta have been rising over the past four decades.

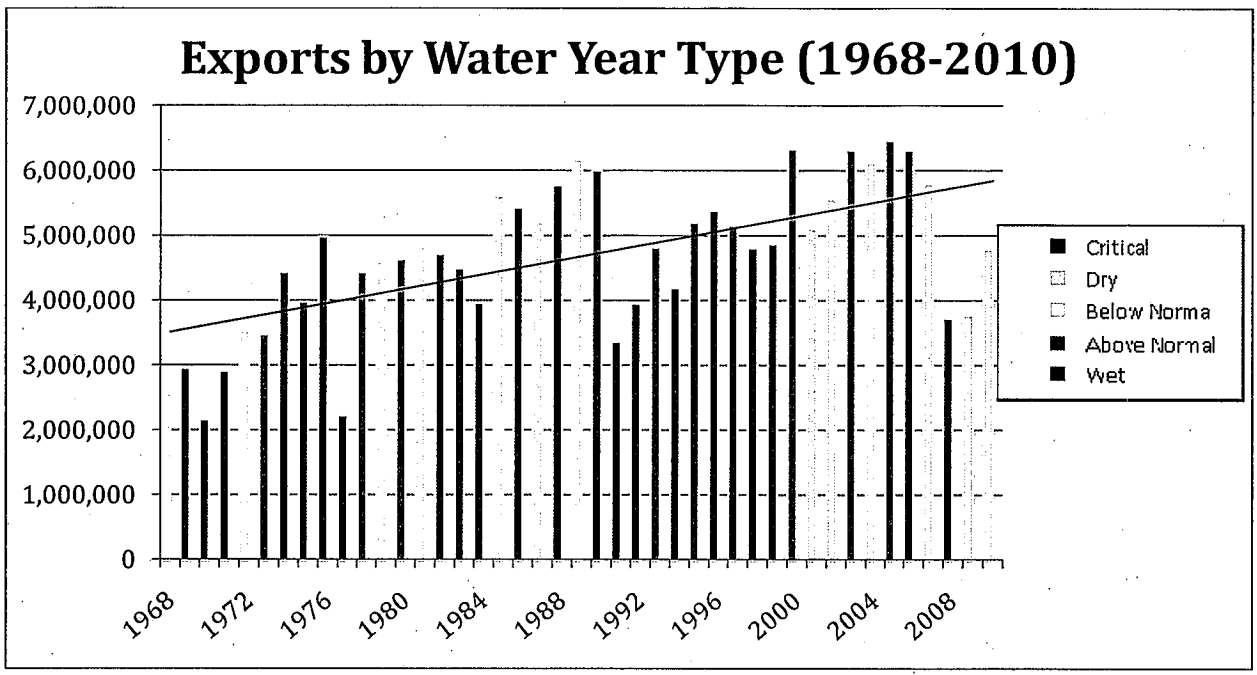

Figure 1. Exports figures adapted from DWR Dayflow Program and Water Year Classifications (Sacramento River indices) are adapted from the California Data Exchange Center

Grouping the total available record by the range of exports also provides valuable information.

Total Exports from the Delta 1968-2010	Number of Water Years
Exceeding 2 maf	5
Exceeding 3 maf	8
Exceeding 4 maf	13
Exceeding 5 maf	11
Exceeding 6 maf	6

I also asked our staff to chart the entire historic record of exports, but separate out the standard information and organize it into wet, average or dry water years. This information is also instructive:

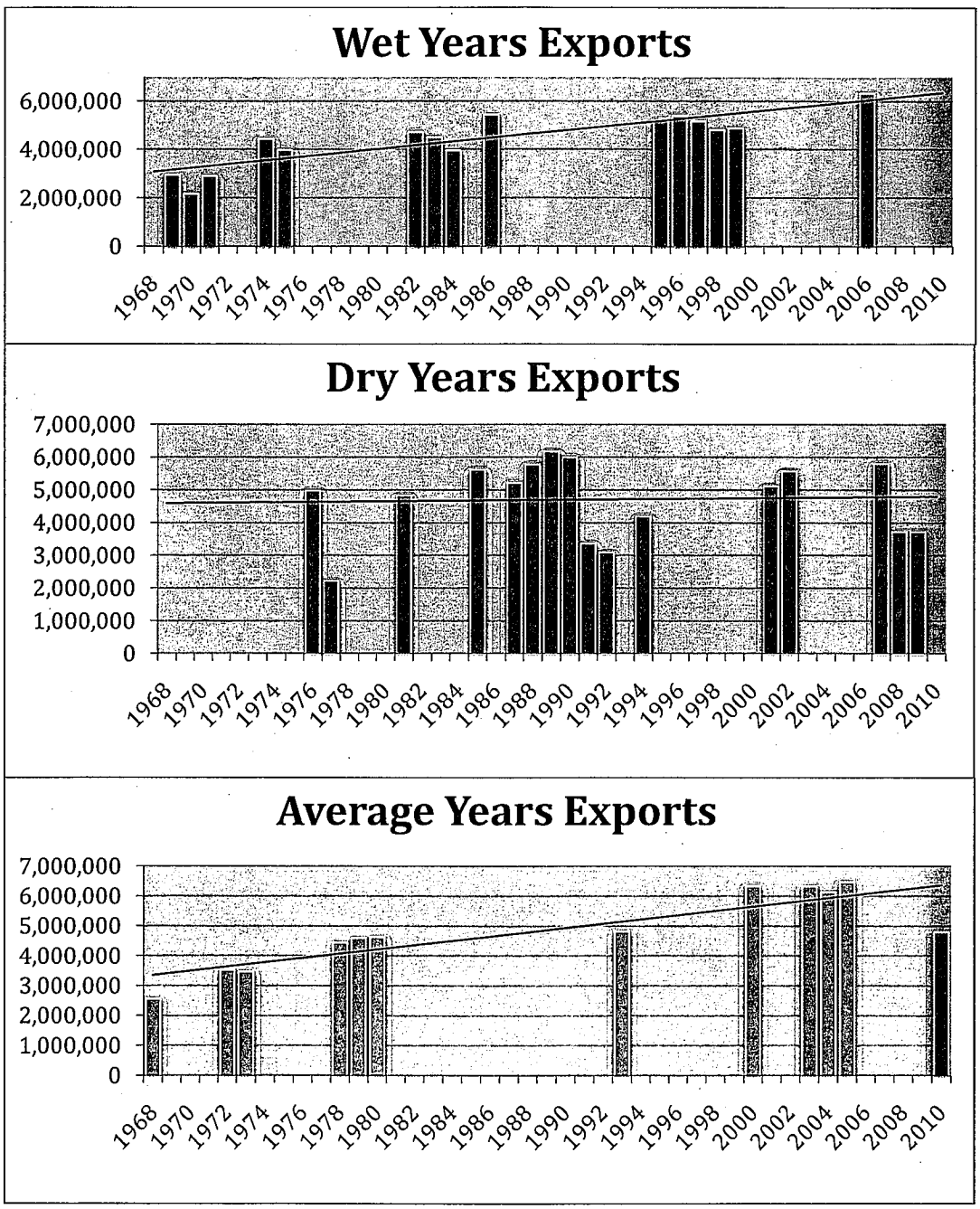

Figure 2. Adapted from DWR Dayflow Program and California Data Exchange Center

I can understand why the State Water Contractors prefer to look at the latest 5-year boom/bust cycle, since it increase the 'base' level of exports that you wish or hope to claim for contractors into the future. However, that approach conflicts with all of the scientific information we have received, and all the engineer and water management options that suggest overall trends --- not selected short-term cycles --- are the logical basis for decision making.

It is hard to review this information and reach any other conclusion that, over time, the total volume of exports has increased in wet years, average water years and dry water years!

Which leads to a related question, not addressed by your letter. How do you think water exports play into the decline of the Delta ecosystem and the fish and land species it supports?

You know from other parts of the 5th Draft Delta Plan that there is a strong connection between the levels of exports from the Delta and the status of key fish populations (see Chapter 5, p. 107, etc.). Since the Delta ecosystem is dependent on a host of factors, most notable habitat, water and 'other stressors', it is obvious that water exports cannot stand alone as a desired goal, nor can the Delta ecosystem stand alone as a desired goal. Each must be judged on their impacts, positive or negative, to the other coequal goal.

And, yes, focusing only on Delta water exports blurs the important point that upstream diverters, and in-Delta water users bear some responsibility for damage done to the Delta ecosystem. They also must be part of the solution.

Finally, your letter did not say so, but I assume that you agree with the Delta Vision recommendation, which is echoed in the 5th Draft Delta Plan, that higher exports in wet years should result in lower exports in dry years, and perhaps even some average water years as well, in order to ensure the Delta ecosystem receives adequate water. It would be helpful if you could clarify that point. It is another way to illustrate how 'coequal' goals relate to each other.

2. You assert that 2011 is the second year, not the first year, that exports from the Delta have exceeded 6 million acre feet.

During the time period you suggested, the 5-year boom/bust cycle --- you are right, 2011 is the second year exports exceeded 6 maf. However, the complete historical record from the start of CVP exports and including all the SWP exports shows that 2011 will be the sixth year of exports at that level. I think we might have resolved this issue by the discussion above, which suggests all of us refer to the total historic record, not a subset.

However, you raise an interesting point about the value of surface and groundwater storage, and how improvements in recent years, such as MWD's Diamond Valley Reservoir, Arvin-Edison and the Semitropic groundwater bank in Kern County have led to the increase of exported water. Your argument here, I think, is that since everyone supports additional water storage it should follow that increased exports from the Delta and directed to underground storage, are valued.

We recognize that in recent years some of this exported water has been designed to replenish underground water aquifers that have been seriously depleted for decades and the Tulare Basin for almost 100 years. Personally, I doubt that the way to solve the overdraft problem of water basins is by continuing or increasing exports from the Delta, an approach based neither in science or in the statutory language of the 2009 legislation.[1]

3. You agree with us that "*The expectation that each year --- wet, dry or average --- should yield the same quantity of water exported from the Delta watershed is unrealistic...*" --- but you urge us not to say it!

This was the most encouraging part of your letter. It correctly states the long-standing law in California, which is that no individual, no business and no industry 'owns' water; instead, they may have one or another 'right' to use a certain amount of water, but under terms and conditions that reflect the needs of this state.

Your statement is a powerful one, and needs to be repeated constantly, perhaps even to some of your members who occasionally appear to suggest that there is no limit to what water might be claimed. I assume you will advise them of the position of the State Water Contractors and San Luis and Delta Mendota Water Authority, and I congratulate you for making this statement.

Unfortunately, I do not support your request that we delete the statement. After 16 months of the Delta Stewardship Council, two years of the Delta Vision Blue Ribbon Task Force process, and 25 years as a Mayor and city councilmember and state legislator, I can assure you that a large number of elected officials and ordinary citizens still talk about water as if the supply is endless and they can take and use whatever they want without regard to other needs. Thus, we have a duty to repeat fundamental facts and fundamental law to refute mistaken views.

Fortunately, the 2009 water legislation which led to creation of the Delta Stewardship Council, pointed the way for how to resolve issues like this:

"The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta".
Water Code Sec. 85023

A note on the DWR *SWP Supplies 'reliability curve'* you included

Your letter included a DWR reliability chart, but it is hard to tell what point you wished to make by its insertion. You seem to suggest that State Water project Contractors receive little water in dry years, only about 64 or 65 percent in average water years and only in the very wettest years get 100 percent of the supply. Without a citation it is impossible to know if this is limited to Table A water or also includes Article 21 water, which all agree is available only in truly wet years.

Isn't that exactly how the SWP is supposed to work? Did you not say that any contract rights of SWP contractors are limited by terms and conditions, and the amount of water available?

In closing, I appreciate your letter, its arguments, and the opportunity it provided me to respond in detail. Too often in public policy discussion, parties use deliberately unclear language to state their case. I am pleased that you did not do so.

Sincerely,

Phil Isenberg, Chair
Delta Stewardship Council

[1] Faunt, C. C., editor. 2009, Groundwater Availability of the Central Valley Aquifer, California. U.S. Geological Survey Professional Paper 1766; Delta Stewardship Council. 2011, Fifth Staff Draft Plan 99.1