

## DELTA STEWARDSHIP COUNCIL

### RESOLUTION 2013-3

#### ADOPTION OF THE REGULATION IMPLEMENTING THE DELTA PLAN

WHEREAS section 85001(c) of the Water Code directs the Delta Stewardship Council (“Council”) to develop a legally enforceable Delta Plan to address the crisis in the Delta and section 85225 of the Water Code requires covered actions proposed by state or local public agencies be consistent with the Delta Plan; and

WHEREAS the Council has developed the Delta Plan over a period of two years, conducted numerous public meetings and hearings, heard extensive evidence and testimony from experts and stakeholders, incorporated policies in the Delta Plan intended to become legally enforceable through regulation, considered a range of alternatives to those policies, and adopted the Final Delta Plan via Resolution number 2013-2, which Resolution is hereby incorporated herein by this reference; and

WHEREAS the Council has prepared and certified a Program Environmental Impact Report (PEIR) for the Delta Plan (“PEIR”) (State Clearinghouse No. 2010122028) via Resolution number 2013-1, which Resolution is hereby incorporated herein by this reference; and

WHEREAS the Council has initiated formal rulemaking under the California Administrative Procedures Act by filing a Notice of Proposed Adoption, published in the California Regulatory Notice Register on November 30, 2012, and received and considered comments from the public submitted during a 45-day period ending January 14, 2013 and at public hearings on January 11, 2013 and January 24, 2013; and

WHEREAS the Council directed its Executive Officer on March 29, 2013 to modify the proposed regulation in response to comments and those modifications were published in a Notice of Modified Text on April 8, 2013, and the Council has received and considered comments from the public submitted during the additional comment period ending April 22, 2013; and

WHEREAS the Council published a Notice of Additional Document on April 24, 2013 and has received and considered comments from the public during the additional 15-day comment period ending May 9, 2013; and

WHEREAS the PEIR has been presented to the Council and the Council has reviewed and considered the information therein, along with all staff reports pertaining to the Delta Plan, all other pertinent documents, and all written and oral comments received by the Council on the PEIR, the Delta Plan, and the regulation; and

WHEREAS the Council has determined that none of the alternatives it has considered during the course of the Delta Plan development and PEIR preparation, or that have otherwise been identified and brought to the attention of the Council, would be more effective in carrying out the purpose for which the regulatory action is proposed, would be as effective in carrying out the purpose and less burdensome to affected private persons than the regulation, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy the regulation addresses; and

WHEREAS the Council has determined that the proposed regulatory action could impose a mandate on a local agency or school district that proposes a covered action, and if such agency does not have or is unable to exercise authority to recover costs through the use of fees, assessments, and charges, Section 41 of the Delta Reform Act provides for the Commission on State Mandates to determine costs mandated by the state and for reimbursement to local agencies pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

NOW, THEREFORE, BE IT RESOLVED BY THE DELTA STEWARDSHIP COUNCIL:

1. The Council hereby finds the foregoing recitals to be true and correct and incorporates them herein.
2. The Council hereby adopts the regulation as presented to it at its meeting of May 16-17, 2013 and directs the Executive Officer to incorporate the errata and any other non-substantive, technical changes identified at that meeting, plus any others identified subsequent to the meeting.
3. The Council directs the Executive Officer to provide the California Department of Finance with any additional information or assistance it needs to complete its review.
4. The Council directs the Executive Officer to finalize all elements of the rulemaking package and submit to the Office of Administrative Law once that is complete. The Council grants the Executive Officer discretion to make changes required by the Office of Administrative Law in order to comply with requirements of the California Administrative Procedures Act.
5. The Council directs the Executive Officer to prepare and submit to the Office of Administrative Law a request for an expedited effective date of the regulation for good cause (in particular, the urgent need to begin enforcement of the Delta Plan to address the crisis in the Delta) under Government Code section 11343.4(b)(4).

#### CERTIFICATION

On a motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and a vote of the Council, the foregoing resolution was passed and adopted by the Delta Stewardship Council by a vote of \_\_\_\_ in favor to \_\_\_\_ opposed at a regular meeting of the Delta Stewardship Council on May \_\_, 2013.

Dated: May \_\_, 2013

Patricia Rogers  
Clerk of the Board of the Delta Stewardship Council