

May 21, 2025

Delta Stewardship Council  
715 P Street,  
15-300 Sacramento, CA 95814

Re: Agenda Item 4B – Consideration and Possible Adoption of Regulations Relating to the  
Delta Stewardship Council’s Meeting Procedures

Opposition to Proposed Regulations 5000.15(c), 5000.14, and 5000.17

We write on behalf of undersigned organizations, to express our alarm at the Council’s new proposed meeting regulations. As explained below, Sections 5000.15(c), 5000.14, and 5000.17 conflict with the Bagley-Keene Open Meeting Act and would undermine longstanding California principles of public engagement and transparency. We urge the Council not to adopt these regulations.

### **1. Section 5000.15(c): Precluding Public Comment Violates Bagley-Keene**

Section 5000.15(c) would authorize the chair or presiding officer to “limit or preclude oral comments as necessary for the orderly conduct of business.” This power directly violates Government Code § 11125.7(a), which mandates that state bodies provide an opportunity for the public to address the body *on each agenda item* before or during its discussion. (emphasis added.)

Bagley-Keene allows for reasonable time, place, and manner regulations—such as time limits per speaker—but not wholesale suppression of public comment. The law’s intent is clear: each item must be open to public comment.

This regulation’s language is especially dangerous because it enables the complete denial of comment on controversial items, exceeds the Council’s authority under Water Code § 85210(i), and lacks procedural safeguards.

Courts and the Attorney General have consistently held that public comment cannot be eliminated. We strongly recommend removing the phrase “or preclude” and affirming that reasonable time limits may be imposed in line with Government Code § 11125.7(b).

### **2. Section 5000.14: Chair’s Interpretations Could Enable Violations**

Section 5000.14 states: “A decision of the chair with respect to the interpretation or applicability of this article shall be overruled only by a majority vote of the full Council.”

Combined with § 5000.15(c), this allows the chair to block public comment unless a majority acts immediately. If a chair’s ruling blocks comment and a majority fails to act, the Council could violate Bagley-Keene.

Recommendation: Clarify that all chair decisions must comply with Bagley-Keene, and require a full Council vote on any ruling limiting public comment.

### **3. Section 5000.17: Excluding Video from “Original Evidence” Undermines the Administrative Record**

This provision defines only official transcripts, minutes, and resolutions as “original evidence,” excluding video.

This conflicts with norms of transparency and with Gov. Code § 7920.000 et seq., which recognizes recordings as public records. Video is often the most accurate record and critical in court review. This provision is especially troubling, given that official transcripts could omit objections to preclusion of public comment.

Recommendation: Revise to affirm that transcripts are official records, but that video and audio recordings are also valid and publicly accessible evidence of Council administrative procedure.

### **Conclusion and Request**


The Delta Stewardship Council must not approve the proposed Sections 5000.15(c), 5000.14, and 5000.17. These sections would enable suppression of public comment on controversial items, and violations of Bagley-Keene Act requirements for public input into Council deliberations.

We urge the Council to:

1. Remove or revise Section 5000.15(c).
2. Clarify Section 5000.14 to ensure Bagley-Keene compliance.
3. Amend Section 5000.17 to include video/audio as valid meeting records.

Respectfully submitted,

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