



CENTRAL DELTA WATER AGENCY

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Delta Independent Science Board

**Re: Water Supply Reliability Estimation Related to the Sacramento-San Joaquin
Delta Public Review Draft 1 September 2021**

The Central Delta Water Agency fully supports an independent review of the availability of water from the Sacramento-San Joaquin Delta Watershed that is truly surplus to the present and future needs within the watershed including fish and wildlife needs. Hopefully your review will include such determination as such determination should define the reliability of water supply for use both within the watershed and for export from the watershed.

Attached hereto is a copy of our March 31, 2021 comments to the SWRCB dealing with water availability in the Delta Watershed. Although limited such comments contain more specific evidence and detail relevant to your task.

The need for independent review stems from the fact that both the State and the United States operate the SWP and CVP to export water from the Delta Watershed while at the same time exercising regulatory control over water to protect the public trust. The conflict is real and obvious. With the passage of time the interrelationship of the project operators and regulators has increased as to program implementation, modeling, policy and even regulatory actions. Much of such interrelationship is not in public. The conflict is further complicated with the injection of the politics of water.

The draft suggests as a premise that the water projects were sized to provide 100% reliability. There is no evidence that such is the case. The projects originally had limited places of use and a clear distinction between a firm supply (water that could be supplied in the sixth year of a drought like 1928/29 through 1934) and the supply of surplus water that would be available intermittently in wetter years. There were constraints on use of the surplus waters to avoid permanent demand. The CVP even had a restraint on delivery of water to owners of farms greater than 160 acres in size and a subsidy to promote agriculture on what was expected to be small farms. The CVP generally built reservoirs and then contracted supply. The SWP was a build and pay as you go project to serve a specific group of contractors i.e. Table A entitlement holders who were to pay the entire cost of the projects. The limitations on the availability of water from the Delta Watershed were clearly recognized and the plan was to develop projects in

the North Coast Watersheds as demand grew in the Delta Watershed and in the Project export service areas. There was a clear expectation that the cost of water development and delivery from the North Coast would be greater than the cost of more local measures such as desalination. The planned development in the North Coast Region did not take place and the permits for the SWP and CVP overlapped as to water from the Feather River.

Caution should be applied in assuming that appropriative permits represent water rights. Due to California policy that all water should be put to beneficial use, Permits to appropriate water are generally granted if there is a determination that unappropriated water exists. In many cases the unappropriated water is so limited as to time of availability or other factors that it can't with exercise of due diligence be put to use to merit issuance of a license. There has not been a basin wide adjudication to refine the quantification of water rights or a SWRCB effort to pursue enforcement of due diligence particularly on the large permits for the SWP and CVP.

Your review should not be constrained by a focus on only the "Coequal Goals" in Water Code section 85054. The Sacramento-San Joaquin Delta Reform includes and incorporates much more detailed direction such as Water Code section 85021 **Reduction of Reliance on Delta for future water supply needs** and Water code section 85031 **Effect on existing water rights; diversion and conveyance of water not to deem area immediately adjacent or capable of being conveniently supplied; applicability of other Water Code provisions; effect on existing legal protections.**

As to 85201 much of the gain in water supply due to self-sufficiency measures has gone to development of permanent water demand in the desert rather than reduction of reliance on the exports from the Delta.

As to 85031 it should be recognized that in addition to protections of senior water rights the constraints on exports include statutory protections such as Water Code sections 12200 et seq. and Water Code sections 11460 et seq. and court decisions. Such protections clearly include the obligation of the SWP and CVP to provide salinity control for the Delta in priority over exports.

The California law and policy of exporting water from areas which have water to other areas is based on limiting the export to water which is truly surplus to the present and future needs within the areas from which the water is taken. The policy was developed in the shadow of the raid on Owens Valley by the Los Angeles Department of water and power and makes sense today. Why harm one area of the State to foster development in another?

Thank you for the opportunity to comment and we look forward to your independent review. If you need further information or historical documents from us feel free to ask.

Respectfully submitted,



Dante John Nomellini Sr