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To: Delta Council ISB <DeltaCouncilISB@deltacouncil.ca.gov>

Subject: Comments on draft on decisions in deep uncertainty

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I am leery of program which is intended to justify ducking public participation and perhaps forgetting, ignoring, justifying or at least facilitating violating existing laws. The easement for navigation provides the public with the right to use navigable waters, even those navigable only in small craft and only for recreation, including their dry beds and banks below ordinary high-water mark, and there engage in recreation. Both natural lakes and streams and artificial reservoirs and canals. Whether or not the land has been reclaimed and now sits on the dry side of the levee.

The Public Trust Doctrine generally requires that before a public agency makes a decision it should consider the effect of the proposed decision on public trust interests, avoiding so far as feasible interfering with them, and providing this consideration in a public manner facilitating public participation.

Sec. 25 art. I Cal. Const. provides the public with the right to fish on state-owned land and provides that no land owned by the state shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon.

Public Resources Code sections 6210.4 and 6210.5 provide that no land owned by the state and providing the only convenient access to navigable water or other state-owned land ever be sold without reserving convenient access.

These laws do not get compliance without a public process in which the public gets to point them out and argue their applicability.

"Science based decisions" are often based on subjective assumptions about the relative importance of flood control, water development, habitat and recreation. However, the laws are fairly clear about the need for a public discussion.

So what do you do when you must act before a public opportunity to participate? Keep a good record of the decisions made and the reasons for them. Begin a public process as soon as possible. Since you made your decision and commenced implementation you will have more information to provide to the public. Be

prepared for the possibility that your decision may disintegrate before your eyes when the public informs you of weaknesses you missed. Or, also, what if a court second guesses you about your justification for bypassing a public process?

And finally, any decision to act without legally require transparency is both suspect and living an opportunity to work on building consensus and self-governance.

Sent from my Verizon, Samsung Galaxy smartphone