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DELTA STEWARDSHIP COUNCIL

May 10, 2010

Bay-Delta Conservation Plan Steering Committee
C/o Ms. Karen Scarborough
Undersecretary
Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, California 95814

Chair
Phil Isenberg

Members
Randy Florini
Gloria Gray
Patrick Johnston
Hank Nordhoff
Don Nottoli
Richard Roos-Collins

Interim Executive Officer
P. Joseph Grindstaff

Re: Delta Stewardship Council Roles in BDCP Process

Dear Steering Committee Members and Ms. Scarborough:

As you know, the Delta Stewardship Council was established as an independent state agency, effective February 3, 2010, by the Sacramento-San Joaquin Delta Reform Act of 2009 (new Div. 35 (commencing with Section 85000) of the Water Code).

The Council's primary duty is to develop and adopt by January 1, 2012, a comprehensive resource management plan for the Delta that furthers the co-equal goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem (which must be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place).

The purpose of this letter is to clarify the Council's roles with regard to the Bay-Delta Conservation Plan, which shall be considered for inclusion in the Delta Plan in accordance with the provisions of Chapter 2 (commencing with Water Code Section 85320) of the new Act.

In addition to establishing conditional criteria for inclusion into the Delta Plan, the provisions of Chapter 2 require the Council to be involved with the development and review of the BDCP in various capacities.

- First, the Department of Water Resources is required to consult with the Council (and the Delta Independent Science Board) during the development of the BDCP.
- Second, the Council is designated as a responsible agency for CEQA review of the BDCP EIR/S.

"Coequal goals" means the two goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place."

- State Water Code §85054

- Finally, the Council is designated as an appellate body with regard to a decision by the Department of Fish and Game that the BDCP has met the requirements in Chapter 2 for inclusion into the Delta Plan.

You may recall that the new Act transferred to the Council all of the staff, resources, and administrative rights, duties and obligations of the California Bay-Delta Authority, which included the Authority's representative seat on the BDCP Steering Committee. We have carefully considered whether it is appropriate for us to continue as the successor to the Authority on the Steering Committee, especially given the need for the Council to independently and objectively carry out its statutorily-prescribed roles in the BDCP process--- particularly the potential role as an appellate body with regard to a decision by DFG. *We have determined that, in order to preserve our impartiality and prevent even an appearance of a potential conflict of interest, it is prudent for us to resign our membership on the Steering Committee, effective today.*

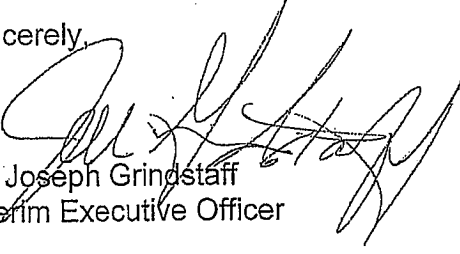
At the same time, we are fully committed to actively engaging in the BDCP process in our "consultative" and "responsible agency" roles as required by law, and propose for your consideration the following:

1. The Council, through a representative, will attend Steering Committee meetings as an "Interested Responsible Agency Observer". I presume this may require an amendment to the Planning Agreement, or otherwise. As such, the Council representative will not vote on action items, or be bound by decisions of the Steering Committee, but may participate in discussion, as appropriate. It would be appreciated if the Steering Committee will arrange for seating of the Council representative (and other Interested Observers) at a separate table located near the table at which Steering Committee members sit.
2. Outside of Steering Committee meetings, Council staff will regularly consult with, and provide comments to, DWR, DFG and other relevant stakeholders in the development of the BDCP and its EIR/S, to help ensure that the BDCP and its EIR/S adequately address the statutory criteria for inclusion in the Delta Plan by among other things:
 - (a) furthering the co-equal goals;
 - (b) including proposed water and ecosystem actions that will be implemented in a concurrent, balanced, and comparable manner; and
 - (c) identifying and securing sufficient funding associated with those actions.

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The Council looks forward to working with the BDCP Steering Committee, its members, and other interested stakeholders in successfully implementing the new Act, and greatly appreciates the accommodation shown to the Council as it transitions into its new governance role.

Sincerely,



P. Joseph Grindstaff
Interim Executive Officer

cc: Delta Stewardship Council