CALIFORNIA natural resources AGENCY

DELTA STEWARDSHIP COUNCIL

CALIFORNIA Water Boards

April 30, 2013

Dear Members of Congress:

We are writing on behalf of Governor Brown in response to your March 21, 2013 letter concerning the coordination of planning efforts in the Bay-Delta by the State Water Resources Control Board (State Water Board), the Delta Stewardship Council (Council), and Bay Delta Conservation Plan (BDCP) participants. Our agencies have different responsibilities, but have coordinated processes underway to address various facets of California's water challenges. We are responding jointly on behalf of the state agencies involved in these Delta planning processes.

As you are aware, Delta issues are of statewide concern and of considerable complexity. In the Sacramento-San Joaquin Delta Reform Act of 2009, the California Legislature determined that the existing Delta policies were not sustainable and provided a framework for the sustainable management of the Delta ecosystem and water supply. Our agencies' concurrent planning efforts are intended to effectuate that framework in a coordinated fashion, while meeting the distinct statutory mandates and independent responsibilities of each agency.

Given the varying purposes, statutory mandates, and procedural requirements applicable to the three planning processes, complying with these requirements in a single proceeding or process is not feasible. But despite the different purposes of these planning efforts, the processes are proceeding in an integrated manner. For example, in order to implement the BDCP, participating entities will potentially need various approvals from the State Water Board or Regional Water Quality Control Boards, including water rights permits, changes to existing appropriative water rights, and Clean Water Act water quality certifications for various elements of the BDCP, including water conveyance facilities and habitat restoration. As another example, the State Water Board's current update of the Bay-Delta water quality control plan (Bay-Delta Water Quality Plan) will implement a key policy of the Council's draft Delta Plan that directs the state Water Board to adopt and implement updated flow objectives for the Delta. These updates are necessary to achieve

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the Delta Reform Act's coequal goals of a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem.

To the extent possible, each agency is coordinating with the others to develop and share technical information that may be used by an agency in its individual efforts. We must emphasize, however, each agency has an independent obligation to act under its own statutes and in keeping with the purposes of its own planning efforts.

Your letter focuses on concerns about the State Water Board's water quality control planning efforts in the Bay-Delta. The State Water Board is the state agency with primary responsibility for water quality control in California. In accordance with state and federal law, the State Water Board has adopted, and is required to update periodically, the Bay-Delta Water Quality Plan.

The State Water Board currently is considering proposed amendments to the Bay-Delta Water Quality Plan that will establish flow objectives and a program of implementation for the protection of fish and wildlife beneficial uses in the lower San Joaquin River and its three major tributaries (the Stanislaus, Tuolumne, and Merced rivers). The proposed amendments will also include revised southern Delta salinity objectives along with a program of implementation for the protection of agricultural beneficial uses. In accordance with the California Environmental Quality Act and other laws, the State Water Board recently released for public comment a draft Substitute Environmental Document (SED) that analyzes the environmental effects of the proposed amendments, as well as certain economic factors. The State Water Board also has begun evaluating other potential amendments to the Bay-Delta Water Quality Plan for the protection of fish and wildlife beneficial uses.

Your letter expresses concern over the potential for fallowing substantial irrigated acreage. The discussion in the draft SED of the potential fallowing is in the nature of a worst case analysis. The analysis assumes that projected reductions in irrigation deliveries will result in a proportional reduction in irrigated acreage. Experience indicates that this is improbable. Improved irrigation efficiencies, water transfers, conjunctive use, and other responses to reduced supplies are likely to substantially reduce the extent of any impact.

Moreover, the SED is an initial analysis step in the State Water Board's Bay-Delta Water Quality Plan process. The State Water Board has received extensive comments on this and other concerns about the draft SED, and will make appropriate revisions in the final SED. Of course, the State Water Board will take impacts on irrigated agriculture into account in determining what water quality objectives to adopt and how they should be implemented. The State Water Board's ultimate decision will be informed by the public comments and based on the law and science.

Finally, your letter raises concern that the State Water Board's water quality control planning process could threaten upstream senior water right holders. The program of implementation in the Bay-Delta Water Quality Plan will be developed consistent with California law, including state law protecting senior water rights and the needs of areas and watersheds of origin.

The State Water Board's update began before the BDCP and serves different objectives. Nonetheless, the State Water Board, Council, and BDCP have continued to coordinate and exchange information so our agencies' efforts do not work in conflict with one another. We hope this information addresses the concerns raised in your letter. Your letter will be included in the administrative records for the Bay-Delta Water Quality Plan, the BDCP, and the Council's Delta Plan.

Sincerely,

John Laird, Secretary
California Natural Resources Agency

Phil Isenberg, Chair
Delta Stewardship Council

Felicia Marcus, Chair
State Water Resources Control Board

Identical letter sent to:

Honorable Jeff Denham, Member of Congress

Honorable Jim Costa, Member of Congress

Honorable Doug LaMalfa, Member of Congress

Honorable John Garamendi, Member of Congress

Honorable Devin Nunes, Member of Congress

Honorable Tom McClintock, Member of Congress

Honorable David Valadao, Member of Congress

cc: Honorable Edmund G. Brown Jr.
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