

LOCAL AGENCIES OF THE NORTH DELTA

1010 F Street, Suite 100, Sacramento, CA 95814
(916) 455-7300, osha@semlawyers.com



December 16, 2016

SENT VIA EMAIL (commentletters@waterboards.ca.gov)

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

RE: Comment Letter – Bay-Delta Phase II Working Draft Science Report

Dear Ms. Townsend:

These comments on the Working Draft Scientific Basis Report on the Phase II update of the 2006 Bay-Delta Plan (“Report”) are submitted on behalf of the Local Agencies of the North Delta (“LAND”). LAND is a coalition comprised of reclamation and water districts in the northern geographic area of the Delta.¹ Due to limited resources, and the necessity to direct those resources toward the most pressing threats to Delta water users, LAND is unable to provide detailed comments to the State Water Resources Control Board (“Board”) at this time. LAND does, however, have a preliminary comment on the scope of the Report.

LAND is concerned that the Report does not address Interior Delta Flows in the northern Delta, focusing only on Delta Cross Channel Gate Operations, Old Middle River Flows, and San Joaquin River Flows to Exports. (See Report, pp. 1-14 to 1-15.) Major new diversions are being proposed in the northern Delta on the Sacramento River by the Department of Water Resources and the Bureau of Reclamation, which is the subject of a separate quasi-adjudicatory proceeding at the SWRCB. Should the proposed Delta Tunnels not be approved, other new diversions in the northern Delta may be proposed in the future.

¹ LAND member agencies cover an approximately 110,000 acre area of the Delta; current LAND participants include Reclamation Districts 3, 150, 307, 317, 349, 407, 501, 551, 554, 556, 744, 755, 813, 999, 1002, 2111, 2067 and the Brannan-Andrus Levee Maintenance District. Some of these agencies provide both water delivery and drainage services, while others only provide drainage services. These districts also assist in the maintenance of the levees that provide flood protection to homes and farms.

Jeanine Townsend
State Water Resources Control Board
December 16, 2016
Page 2 of 2

Any new diversions in the northern Delta would alter hydrodynamics, and impact fish and wildlife beneficial uses, as well as other beneficial uses. Therefore, it would be prudent to include consideration of flow requirements in the northern Delta early in the planning process. Such flow requirements should consider limits on reverse flows in this geographic area; while reverse flows already occur in this area at times, major new diversions would increase the occurrence of such flows to the detriment of fish and wildlife, and other beneficial uses.

On a related note, a Sacramento Superior Court recently held that the 2009 Delta Reform Act required the Delta Stewardship Council “to promote options for water conveyance” and that the failure to promote options for water conveyance was a violation of the Delta Reform Act. (May 18, 2016, Ruling, pp. 37-38, 59.) Such policies and recommendations would include basic criteria applicable to new diversions (conveyance) in the Delta. LAND and others have consistently and successfully argued that criteria by which new diversions could be operated within the parameters of the 2009 Delta Reform Act and other applicable laws are necessary to protect the estuary and beneficial uses given the unavailability of additional, unclaimed water supplies. Yet the Delta Stewardship Council has filed an appeal with the Third District Court of Appeal and it is not clear whether and when such guidance will be provided by the Delta Stewardship Council.

By considering these issues now, the SWRCB can provide needed guidance for future new diversions, and better protect the estuary and existing beneficial uses from further harm. We hope this letter is helpful in the Board’s process and will provide more detailed comments in the future as time allows. Thank you for considering these comments.

Very truly yours,

SOLURI MESERVE
A Law Corporation

By: 

Osha R. Meserve

ORM/mre