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September 17, 2011

Phil Isenberg, Chair  
 Delta Stewardship Council  
 980 Ninth Street, Suite 1500  
 Sacramento, CA 95814

Electronic Copy  
Hardcopy to Follow

Re: Covered Actions; Policy WP P1

Dear Chairman Isenberg,

On behalf of the Mountain Counties Water Resources Association (MCWRA), I want to thank the Delta Stewardship Council for holding two very constructive and productive workshops on Thursday, September 15, 2011. We very much appreciate Staff's continued hard work and the opportunity to provide stakeholder input during each workshop. I would also like to thank Council members Gloria Gray, Felicia Marcus and Randy Fiorini for taking time from their busy schedules to attend and participate in the dialog.

During the afternoon workshop on "Covered Actions & Governance", several speakers addressed the continuing concern from water purveyors within the Delta **Watershed** over the Delta Plan's description of "covered action." You will recall that we also brought up this issue at the August 26<sup>th</sup> Delta Council meeting. While the Fifth Staff Draft Delta Plan has marked improvement over the previous Staff Draft Plans, "covered actions" relevant to the Delta **Watershed** still remain unclear. However, it was only at the workshop that staff stated clearly for the first time that diversions of water within the Delta **Watershed**, including changes to water rights for such diversions, are **not** considered by the Council to be "covered actions" subject to consistency requirements with the Plan.

We strongly urge that the Final Plan include a clarifying statement, possibly within or preceding Policy WP P1 (as referenced on page 82 of the Draft Plan) that reads:

- Executive Members
- Amador Water Agency
- Calaveras County Water District
- City of Folsom
- County of Calaveras
- County of Placer
- El Dorado County Water Agency
- El Dorado Irrigation District
- Foresthill Public Utility District
- Georgetown Divide Public Utility District
- Nevada Irrigation District
- Placer County Water Agency
- South Tahoe Public Utility District
- Tuolumne Utilities District
- Utica Power Authority

*A "covered action" does not include any action granting, administering or changing a water right permit or license to divert water within the Delta watershed but wholly outside of the statutorily defined Delta, or any action to exercise a water right or to use water within the Delta watershed but wholly outside of the statutorily defined Delta, unless the water is conveyed through the Delta.*

The uncertainty and confusion concerning water right administration and use in the Delta **Watershed** has persisted despite efforts on the previous draft Plans to narrow the definition of the term. Because of this and because of the recognized downstream impacts of upstream water use, it is crucial that the Council add this clarification statement. It will streamline the Council's workload, give a measure of assurance and reliability to water agencies, and, probably, avert unnecessary litigation in the future.

Thank you for your consideration. If you have any questions, please give me a call at 530.957.7879.

Sincerely,



John Kingsbury  
Executive Director

Mountain Counties Water Resources Association

c: Delta Stewardship Council Board Members  
Joe Grindstaff, Executive Director, DSC  
Chris Stevens, Chief Counsel, DSC  
MCWRA Board of Directors  
Tim Quinn, ACWA Executive Director  
David Guy, NCWA Executive Director  
Kathy Mannion, RCRC Legislative Director  
John Woodling, RWA Executive Director  
Jan Goldsmith, General Counsel, Placer County Water Agency  
Joone Lopez, General Manager, Calaveras County Water District  
Pete Kampa, General Manager, Tuolumne Utilities District  
Dave Eggerton, General Manager, El Dorado County Water Agency  
Mark Rentz, ACWA Director of Regulatory Affairs