

NORTH STATE WATER ALLIANCE

COMMITTED TO STATEWIDE WATER SOLUTIONS THAT PROTECT THE ECONOMY, ENVIRONMENT, AND QUALITY OF LIFE IN NORTHERN CALIFORNIA.

June 12, 2012

Joe Grindstaff
Executive Director
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Mr. Grindstaff:

The North State Water Alliance appreciates the progress in the Sixth Draft Delta Plan (Draft Delta Plan, May 14, 2012). As the Delta Stewardship Council (Council) takes up the matter of crafting the final Delta Plan, we remain very concerned regarding the way the Draft Delta Plan confuses the issues of “reduced reliance on the Delta” and “increased regional self-reliance” with respect to water supplies in Northern California within the Delta watershed.

As you know, the North State Water Alliance was created to promote responsible solutions for the Sacramento-San Joaquin Delta that protect the economy, environment and quality of life in Northern California. North state water suppliers and users are aggressively pursuing water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts, as required in Water Code §85021. We have also pursued a number of actions in the region to balance and thus ensure reliable water supplies for both economic purposes and sustainable ecosystems.

In the “Water Resources” chapter of the Draft Delta Plan, however, we believe staff has misinterpreted the language and intent of Water Code §85021 in a manner that may violate §85031(a), and would be detrimental to water suppliers serving water for various beneficial uses within the Delta watershed. The Draft Delta Plan suggests that water suppliers within the Delta watershed should decrease their future use of local water sources. This simply does not make sense for areas upstream of the Delta and it is at odds with the area-of-origin laws, the specific purpose of which is to protect the ability of communities in the Delta watershed to use their local water supplies and have maximum flexibility to meet future needs.

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Importantly, while our per capita urban use will continue to decline and farms are applying less water to their fields, the economic outputs and productivity in the region have increased. To sustain these efficiency improvements and to provide water for economic and environmental purposes throughout the region, Northern California water suppliers will continue to rely on access to existing water rights and supplies, while maximizing flexibility to actively manage the water resources in the region. These supplies are critical to meeting both present and future water supplies in a growing region with numerous demands on the water.

We therefore urge the Council to amend its concept of “regional self reliance” with respect to water users within the Delta watershed as suggested in the attached document. To protect water rights consistent with §85031(a), the Delta Plan’s interpretation of §85021 should recognize the need for maximum flexibility and the increased water use of local and regional water sources within the Delta watershed.

Thank you for the opportunity to comment on the Draft Delta Plan. We look forward to continuing to work with the Council in crafting the Final Delta Plan. If you have any questions, please contact any of the undersigned.

Very truly yours,



John Woodling
Executive Director
Regional Water Authority



David Guy
President
Northern California Water Association



Roger Niello
President and CEO
Sacramento Metro Chamber



John Kingsbury
Executive Director
Mountain County Water Resources Association



Mike McKeever
Chief Executive Officer
Sacramento Area Council of Governments

cc: Council Members

North State Water Alliance

Proposed Edits to Sixth Draft Delta Plan Edits to Reflect Water Code Section 85021's Two Sentences

June 6, 2012

Issue: The sixth draft Delta Plan misinterprets Water Code section 85021¹ by combining the separate standards stated in section 85021's two sentences into one metric that is unworkable for the Delta watershed. Specifically, the sixth draft states a metric under which "a significant reduction in net water use, or in the percentage of water used, from the Delta watershed" would be how consistency with section 85021 would be measured. (Sixth draft, pp. 100, 109.) This metric does not accurately reflect the second sentence in section 85021, which states:

Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.

Several of the types of water management projects identified in this portion of section 85021 – especially, "local and regional water supply projects" and "improved regional coordination of local and regional water supply efforts" – involve existing and future water use in the Delta watershed. Such changes may be necessary not only to meet growing demands with the only available supplies, but also to allow for increased diversions in wet periods to enable reduced diversions in dry periods. For example, conjunctive-use programs in the watershed might involve such measures. Section 85021 therefore must be interpreted to allow flexibility to meet changing demands in the watershed. Section 85021 also be interpreted in this manner to be consistent with other parts of the Delta Reform Act, specifically sections 85031(a) – which protects area-of-origin rights in the watershed – and 85302(i) – which states that nothing in the Act affects "[a]ny water right."

Solution: Revise Delta Plan discussion of section 85021 to state an appropriate metric for the Delta watershed. It must recognize that watershed agencies are necessarily dependent on local supplies to meet present and future needs. This metric should measure whether watershed agencies are implementing the management measures that the Legislature listed in section 85021's second sentence.

¹Further references to statutes are to Water Code sections.

Proposed Edits to Sixth Draft Delta Plan (insertion underlined, deletions in strikeout):

1. Chapter 1, page 5, lines 35-37:

Consistent with the longstanding water rights in California, it also reduces reliance on the Delta and improves regional self-reliance in areas that rely on water from the Delta watershed by recommending that all local agencies implement local or regional plans to diversify and integrate supplies and improve efficiency.

2. Chapter 1, page 21, lines 30-32:

Consistent with the longstanding water rights in California, it also reduces reliance on the Delta and improves regional self-reliance in areas that rely on water from the Delta watershed by recommending that all local agencies implement local or regional plans to diversify and integrate water supplies and improve efficiency.

3. Chapter 3, page 68, green text block:

Regions that use water from the Delta watershed will ~~reduce their reliance on this water for reasonable and beneficial uses,~~ and improve their regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts, consistent with existing water rights and the State's area of origin statutes and Reasonable Use and Public Trust Doctrines.

- This will be done by improving, investing in, and implementing programs and projects that, among other things, increase water conservation and efficiency, increase water recycling, expand existing storage, implement new storage projects, improve groundwater management, improve source water supply reliability through integrated land use and resources management actions and enhance regional coordination of local and regional water supply development efforts, and the use of advanced water technologies.

4. Chapter 3, page 68, line 17, through page 69, line 2:

The Delta crisis cannot be resolved by taking actions in the Delta alone. The Delta Reform Act establishes a new policy for California of reducing “reliance on the Delta in meeting California’s future water supplies” (Water Code section 85021). Reduced reliance is to be achieved through “a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency.” Consistent with longstanding water rights protected by the Act (Water Code section 85302(i)), the Act also states that “each region that depends on water from the Delta watershed shall improve its regional self-reliance through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.”

5. Chapter 3, page 69, lines 7-9:

An integrated approach that includes increased water use efficiency, regional diversification and integration of water supplies, ~~reduced reliance on water from the Delta watershed and~~, concurrent improvements to storage statewide and improved Delta infrastructure will help to meet California's future water supply needs by building the resiliency and reliability of California's water supply.

6. Chapter 3, page 69, lines 17-18:

Regions that use water from the Delta watershed will have ~~reduced their reliance on this water~~ improved their regional self-reliance.”

7. Chapter 3, page 76, line 36:

... appropriative) exceeds the surface water supplies that are available in some streams, if all the right-holders fully perfected and...

8. Chapter 3, page 78, lines 7-9:

As stated in Water Code section 85021, State law policy is “to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency.” ~~now requires all water suppliers who use water from the Delta or the Delta watershed to reduce their reliance on those supplies to meet future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. The State law requires that State policy also is, as also stated in Water Code section 85021, that, “(E)ach region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts.” (Water Code section 85021). These strategies will provide new water supplies for the coming century; will help protect the Delta's beleaguered ecosystem; and, combined with State improvements in the Delta, will provide a more reliable water supply for California.~~

9. Chapter 3, page 88, lines 29-31:

. . . because of limited funding and restrictions in some of the grant provisions. The section, Local Water Management in California, later in this chapter, provides further detail on the range of options and describes ~~necessary~~ steps that regions should take to improve regional self-reliance and, for those regions that divert water from the Delta, contribute to the statewide goal of reducing reliance on the Delta.”

10. Chapter, 3, page 92, lines 31-34:

Water developed through these activities can help reduce conflicts among urban, agricultural, and environmental uses, and can contribute to the ability of ~~regions in California~~ statewide to reduce ~~their~~ reliance on the Delta, and for those regions that depend on water from the Delta watershed, to improve their regional self-sufficiency.

11. Chapter 3, page 94, green text block, paragraph 1:

Significant improvements in water management are being implemented throughout California, especially in regions that rely upon water from the Delta. The 2010 Urban Water Management Plan updates and voluntary Integrated Regional Water Management Plan (IRWMP) grant applications filed in 2010 provide insight into what individual water agencies and regional planning efforts are doing to improve water efficiency measures and develop additional local water supplies to reduce statewide reliance on water from the Delta and, for those regions that use water from the Delta watershed, to improve their regional self-sufficiency. Some examples follow.

12. Chapter 3, page 100, lines 1-13:

An assessment of future water supply reliability is now required in Urban Water Management and Agricultural Water Management Plans as well as in voluntary regional water planning documents known as IRWMPs. For areas that rely upon water from the Delta ~~watershed~~, the failure of many water suppliers to identify and evaluate actions to reduce their reliance on the Delta is a significant impediment to achieving the coequal goals.

Problem Statement

The lack of full participation by water suppliers throughout California to implement laws, programs, and projects that improve water efficiency and expand local and regional water supplies; ~~and reduce reliance on the Delta watershed~~ contributes to higher water demands and less water supply to meet these demands. A lack of growth in local or regional efficiency or supplies may impose greater pressure on the Delta ecosystem for its water, and more vulnerability to the impacts of climate change and catastrophic events. At a minimum, all water suppliers should demonstrate full compliance with applicable State water efficiency and management laws, goals, and regulations to demonstrate reasonable and beneficial use of the state's water resources.

13. Chapter 3, page 100, lines 23-30:

For the purposes of this policy, “reducing reliance on the Delta ~~and adequately contributing to improved regional self-reliance~~” means a significant reduction in net water use, or in the percentage of water used, from the Delta ~~watershed~~, which may be achieved through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and

improved regional coordination of local and regional water supply efforts, and at a minimum, must be achieved through compliance with existing state laws regarding water conservation, water efficiency and urban and agricultural water management planning.

14. Chapter 3, page 101, lines 24-36:

Water suppliers that receive water from the Delta ~~or the Delta~~ watershed should include an expanded Water Supply Reliability Element, starting in 20~~12~~20, as part of the update of its Urban Water Management Plan, Agricultural Water Management Plan, ~~Integrated Water Management Plan~~ or other plan that provides equivalent information about the supplier's planned investments in water use efficiency ~~conservation~~ and water supply development. The expanded Water Supply Reliability Element should detail how those water suppliers who receive water from the Delta are contributing to the goal of reducing reliance on the Delta. Those water users who receive water from the Delta watershed should show how they are improving regional self-reliance. The plans should illustrate the programs and projects that will be consistent with and improving regional self-reliance ~~consistent with~~ Water Code section 85021. ~~through investments in local and regional programs and projects, and should document achievement of a reduction in net water use, or in percentage of water used from the Delta watershed.~~ At a minimum, these plans should include a plan for possible interruption of ~~Delta~~ any water supplies exported from the Delta up to 36 months due to catastrophic events, evaluation of the regional water balance, a climate change vulnerability assessment and an evaluation of the extent to which the supplier's rate structure promotes and sustains efficient water use.”

15. Chapter 3, page 101, line 41:

. . . suppliers can implement WR - R4 by 20~~15~~20.

16. Chapter 3, page 103, lines 12-16:²

Water suppliers that receive water from the Delta ~~watershed~~, and that obtain a significant percentage of their long-term average water supplies from groundwater sources should develop and implement sustainable groundwater management plans that are consistent with both the required and recommended components of local groundwater management plans identified by the Department of Water Resources' Bulletin 118 (Update 2003) by December 31, 2014. “

17. Chapter 3, page 108, lines 13-18:

Reduced Reliance for water use from ~~on~~ the Delta Watershed and improved regional self-reliance for those agencies that receive water from the Delta

²The groundwater storage graph on page 97 of the sixth draft Delta Plan indicates that there is no significant overall groundwater problem in the Delta watershed, which comprises the Sacramento, Delta and Eastside Streams and San Joaquin Basin.

watershed. The Delta Plan identifies two core measures of water management consistent with Water Code section 85021. The first is for statewide reduced reliance on the Delta for meeting future water supply needs. The second is that each region that depends on water from the Delta watershed shall improve its regional self-reliance.: ~~a significant reduction in net water use, or in the percentage of water used, from the Delta watershed. Potential additional measures should be identified and evaluated, especially those that, when implemented in the Delta and the upper watershed, will benefit the Delta (amount of water, quality of water, and timing of flows) and contribute to reduced reliance on the Delta watershed, consistent with Water Code section 85021.~~

18. Chapter 3, page 109, lines 6-8:

Water suppliers that receive water from the Delta watershed have documented achievements of improved regional self-reliance through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts, consistent with existing water rights and the State's area of origin statutes and Reasonable Use and Public Trust Doctrines." ~~net reductions in volume of water used from Delta or expansion of local supplies relative to Delta water use.~~ (WR R4)

19. Chapter 6, page 229, lines 9-13:

The State Water Resources Control Board and Central Valley Regional Water Quality Control Board should consider requiring participation by all relevant water users that are supplied water from the Delta or the Delta Watershed, or discharge significant amounts of wastewater to the Delta or the Delta Watershed, and make a demonstrable contribution to the problems addressed by ~~to participate in~~ the Central Valley Salinity Alternatives for Long-Term Sustainability Program (CV-SALTS) to participate in that program.