



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Manager

November 14, 2018

Submitted via email to: waterfixcert@deltacouncil.ca.gov

Mr. Randy Fiorini, Chair
Delta Stewardship Council
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Dear Chair Fiorini:

The Metropolitan Water District of Southern California strongly disagrees with the Delta Stewardship Council staff Determination Regarding Appeals of the Certification of Consistency by the California Department of Water Resources for California WaterFix (Draft Determination) suggesting that the California WaterFix project be remanded to the state Department of Water Resources for further, unspecific changes. California WaterFix is the most exhaustively examined infrastructure project in state history, given more than 11 years of planning, tens of thousands of pages of analysis and more than a million hours of dedicated staff time to advance this Delta modernization process. We believe that the staff Draft Determination proposes unprecedented levels of new paperwork and unspecified changes that are counter-productive to advancing the coequal goals and improving the California economy for the following reasons:

Reduced Delta Reliance: California water policy since 2009 calls for all regions of the state that rely on the Delta Watershed to reduce their reliance on this water supply to meet California's future needs by improving their regional self-reliance. The Metropolitan Water District's long-term integrated resources plan and Urban Water Management Plan follows this policy. The Council staff Draft Determination suggests a potential lengthy delay in the California WaterFix review process, as about 200 local southern California water agencies that may ultimately receive some of Metropolitan's State Water Project water supplies revise their urban or agricultural water management plans to incorporate Metropolitan's overall plan to reduce Delta reliance through improved regional self-reliance. Department of Resources (DWR) has already provided thousands of pages of water planning evidence that supports DWR's certification that water suppliers that will receive water supply reliability benefits of the California WaterFix are improving their self-reliance, and the separate determination that the need for California WaterFix was not significantly caused by any alleged failure to reduce reliance, but by factors recognized before and in the Delta Reform Act, namely, diminishing reliability of Delta exports due to more restrictive regulations to address declining fish populations, threats to Delta levees, and climate change. The Council should direct staff to rely on the substantial evidence in the administrative record that supports DWR's certification of consistency with WR P1 and deny the appeals on that basis.

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Sea Level Rise: California WaterFix is designed to withstand a 200-year flood event conservatively assuming sea level rise of 55 inches—nearly five feet—at Golden Gate Bridge, which is on the higher end of climate change and sea level rise projections. DWR also used the mid-range climate change and sea level rise projections in the Delta through 2060 to conduct its hydrologic modeling of potential impacts to natural resources and water supplies. Nevertheless, Council staff misapplies the policy guidance provided in the reports it cites to conclude that WaterFix failed to rely on the best available science because DWR should have used modeling projections for 2100. Those reports suggest that policy makers design projects on the coast with a long-term useful life to withstand the highest sea level rise scenarios projected for 2100 based on recommendations for risk tolerance in infrastructure design by other agencies. Rising sea levels only reinforce the need for California WaterFix and further analysis would only reprove the point DWR has already made. And at what point do we say multiple studies are enough versus demanding new, further studies on the same issue ad infinitum? Moreover, it is not the Council's place under the Delta Reform Act or the Best Available Science policy to substitute another agency's risk tolerance for DWR's. As noted by the NOAA and OPC reports cited in the Draft Determination, that is a policy decision, not scientific information.

Water Quality Control Plan Flow Criteria: Council staff's preliminary determination that there is no substantial evidence in the administrative record to support California WaterFix's consistency with applicable Delta flow criteria is also off base. The administrative record fully supports DWR's certification that the project can and will be operated to meet all applicable flow criteria, including the Export/Inflow ratio. Although DWR has proposed to modify the definition of "inflow" to account for the new north-Delta intakes, DWR's definition is more conservative than the current ratio, meaning it is more protective against entrainment in the south Delta than would be the case if the current definition and ratio were applied. Thus, there is substantial evidence that California WaterFix is consistent with the current E/I ratio. The Council should direct staff to rectify this and other errors in the staff's Draft Determination regarding consistency with the flow criteria policy, and deny the appeals based on alleged inconsistency.

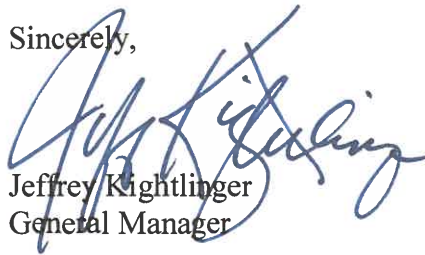
Delta Land Use Impacts: Council staff suggests that the administrative record lacks substantial evidence that California WaterFix has mitigated alleged impacts to Delta parks, recreation, and cultural and historic resources "to the extent feasible." But the policy at issue, DP P2, does not impose a mitigation standard. Rather, it requires agencies proposing water infrastructure projects to "site" the project, when feasible, to avoid or lessen conflicts with existing or planned local land uses. The Final EIR/EIS studied 18 project alternatives with various alignments and surface canals versus tunnels, as well as the No Action Alternative. And DWR explained in the CEQA Findings of Fact and Statement of Overriding Considerations, based on substantial evidence, why California WaterFix is the only feasible alternative. In addition, DWR has documented the ways in which California WaterFix and its predecessor alternative have been sited and the design refined over time to avoid or lessens conflicts with Delta land uses. Moreover, staff fails to specify precisely what additional actions are necessary to comply with its asserted understanding of the policy as requiring all feasible mitigation, creating what is essentially a bureaucratic guessing game were the Council to remand the certification on these grounds.

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Conclusion: The regulatory burdens and uncertainties surrounding the staff proposals are beyond worrisome for any proposal to advance the coequal goals and address the unacceptable status quo in the Delta. The Council should refocus on DWR's substantial evidence that supports DWR's certification of consistency for California WaterFix and direct staff to revise the Draft Determination accordingly to move the project forward.

If the Draft Determination is adopted, Metropolitan can and will work with DWR to submit supplemental documentation to provide more information on the areas of concern the Council has raised. However, the Council staff needs to act responsibly to move the project forward in a timely manner and not succumb to a bureaucratic approach of "paralysis by analysis". Inaction and prolonging the status quo does a great disservice to the Delta and California, and is an abrogation of the Council's duty to further the coequal goals of improving both water supply reliability and the Delta ecosystem.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeff Kightlinger", is written over the typed name and title.

Jeffrey Kightlinger
General Manager