



A G E N C Y

September 3, 2008

Paul J. Hahn, Agency Administrator
Municipal Services Agency, County of Sacramento
700 H St., 7th Floor, Rm 7650
Sacramento, CA 95814

Dear Mr. Hahn:

We have reviewed your letter of August 13, 2008 and placed it in the permanent electronic record of the Task Force, together with your longer letter of August 1, 2008 record. Since your letter deals with Sacramento-specific matters, the two of us who serve on the Delta Vision Task Force who reside in Sacramento wanted to respond.

Your letter insists that the entire Delta Vision process should come to a halt until the Sacramento Board of Supervisors and the County of Sacramento are “consulted”.

“...Nor has Sacramento County been contacted by the “Blue Ribbon Task Force” or any of its staff regarding the critical Sacramento County governmental functions that may be adversely affected by the Delta Vision. This omission, which is of great concern to Sacramento County, should be corrected prior to the Blue Ribbon Task Force Delta Vision proceeding with or finalizing its work.”
(Your August 13 letter, p. 1)

Governor Arnold Schwarzenegger appointed the Blue Ribbon Task Force in March 2007. Our mandate was to deliver a Delta Vision in late 2007 and a separate Strategic Plan by October 2008. We finished our Delta Vision on time last year, and will finalize our Strategic Plan to implement that Vision by the October 2008 deadline. A copy of the Governor’s Executive Order outlining our duties is attached. You will note that the Governor asks us to consider a broad array of statewide water, environmental and Delta-specific problems, and to present our “independent recommendations”.

Task Force work and Sacramento

The Task Force has conducted 30 days of meetings and all but two of those days have been conducted in either the Cities of Sacramento or West Sacramento. The Stakeholders Coordination Group appointed by the Schwarzenegger Administration has also met extensively during this same time frame, commonly in Sacramento.

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As for your assertion that Sacramento County has been ignored in this process:

Two of the seven members of the Task Force live in Sacramento County, as does our Executive Director. The Task Force Chair is a former Mayor of Sacramento and member of governing board of the Sacramento County Regional Sanitation District (SCRSD), a special district providing sewerage treatment and other services for local governments in Sacramento and Yolo County, with a 16-member Board of Directors. The other Task Force member has resided and worked in Sacramento County for 32 years.

- Governor Schwarzenegger's Administration appointed a 43-member Delta Vision Stakeholders Coordination Group to meet and provide comments and recommendations to our Task Force. A copy of the membership of that Stakeholders group is attached. Residents of Sacramento serve on this group, and even more represent various Delta interests or public agencies who are also members.
- The Stakeholders Coordination Group includes Supervisor Mike McGowan (Yolo) and Mayor Christopher Cabaldon (West Sacramento), among others. The Supervisor and Mayor have testified before our Task Force several times in 2007 and 2008. They have never hesitated to present their views in the strongest manner, and to defend their communities as they deem appropriate. Supervisor McGowan is a current member of the governing board of the SCRSD and we know he can speak with authority on questions affecting the district.

Out of curiosity, we checked all 43 Stakeholders, and it appears at least 12 live in Sacramento County, although some are representing environmental groups, business and agricultural interests elsewhere in the Delta or statewide.

- On June 3, 2008 a representative of the Task Force, Leo Winternitz, appeared before the Sacramento Board of Supervisors and gave them a status report of our activities.
- On July 18, 2008, Sacramento County Supervisor Don Notolli spoke to our Task Force, along with other Delta counties. All five surrounding counties had been invited to appear in June, but Sacramento and one other county were unable to do so, and we provided the opportunity for them to comment this July.
- Your staff at the Sacramento Regional Wastewater Authority, Terrie Mitchell, has been monitoring and attending our Delta Vision Task Force and Stakeholder meetings throughout this year. She gave testimony at at least one of our hearings and at a Stakeholder group meeting in 2008.

- Your SCRSD staff invited Chair Phil Isenberg to meet with you and others in August. You were unable to attend the meeting, but Mr. Isenberg was happy to meet with your staff and former County Supervisor Illa Collin and City Councilman Rob Fong, who expressed the concerns of SCRSD.
- You and your staff at the SCRSD have submitted various letters to the Task Force on June 12, July 1, and August 1, 2008, in addition to your most recent letter.

We believe the claim of no 'consultation' is a smoke screen. Basically, you object to a number of recommendations that our Task Force has made, or might make. We are happy to discuss your main point.

Questions about the Sacramento County Regional Sanitation District discharge into the Sacramento River and the Task Force recommendations on water quality

You strongly object to the recommendations of the Task Force dealing with water quality in the Delta that might arguably be applied to the SCRSD.

We know you are particularly concerned about our recommendation (3rd Draft Strategic Plan, p. 43) that those who discharge pollutants or wastewater into the rivers and streams that flow into the Delta have an affirmative obligation to help minimize or eliminate any damage done to the Delta ecosystem, or the water supply system.

Your high level of concerns has been generated by growing criticism over the discharge of ammonia into the Sacramento River from the SCRSD plant. This discharge represents approximately 90% of the ammonia discharged in the Sacramento River as it enters the Delta, based on publicly available data analyzed in a recently published paper (Jassby, 2008).

The SCRSD does not yet have a current permit for operations from the Water Board, but only a temporary Waiver. The SWRCB staff has expressed substantial concern over the discharge of ammonia and they are conducting studies at your request. In the meantime, the Sacramento Bee has printed several detailed stories on the problem, and issued a critical editorial on June 8, 2008, concluding that:

"As the biggest discharger of municipal wastewater into the Delta, Sacramento can't expect to stay on the sidelines as this estuary descends into crisis and continued litigation."

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We are also aware that 'downstream' users of Sacramento River water, including some in the Delta, the San Francisco Bay and elsewhere in the state, have argued strongly that if the SCRSD negatively impacts the quality of water in the river, you have an obligation to help solve the problem. That solution, of course, is the much-discussed treatment for ammonia, as well as increased pathogen treatment.

To add to the problem the other ten wastewater treatment plants in this region (Brentwood, Lodi, Manteca, Stockton, Vacaville, Mountain House, Discovery Bay, Ironhouse Sanitation District, Tracy, and Rio Vista), are either currently treating their discharge of waste water for ammonia (8 districts), or in the process of installing treatment equipment (2 districts).

We understand your argument that the SCRSD should not be required to treat for ammonia prior to discharge, since the Sacramento River is large and fast flowing and capable of diluting the impact of ammonia. Dilution is a cheap option to treatment. Of course, climate change and global warming, plus increasing upstream diversions and other uses, are likely to change the flow levels in the Sacramento River in years to come. What that possibility will do to your arguments is a matter of conjecture.

Your argument appears to be based on the premise that SCRSD has no obligation to share in the consequences of its discharge.

We find this ironic, since leaders of Sacramento and this region fought a long and hard political, legal and governmental battle to protect this area against flooding, in-stream runoff, and other adverse consequences of gold mining in the foothills of the Sierra Nevada. This near 30 year battle --- the first major water battle in California's history --- helped to establish the principle that upstream users of water --- even those operating with a 'water right' --- cannot use water in a way that is damaging to downstream users. For details on this, see the essential 19th century hydraulic mining cases and in favor of Valley farmers, *People v. Gold Run Ditch & Mining Co.* (1884) 118 Cal.160; and *Woodruff v. North Bloomfield Mining Co.* (1884) 18 F.753.

Apparently, this long standing legal principle should, in your view, not apply to Sacramento. And that is why your July 2008 letter requested that our draft strategic plan language be gutted.

At the end of the day, your basic concern is about money. You want someone else to pay for the treatment of ammonia at the SCRSD plant.

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"At a minimum, if there is a statewide interest in modifying the Sacramento Regional Wastewater Treatment Plant, then State funds must be provided to pay for these modifications." (Your August 13 letter, p. 3)

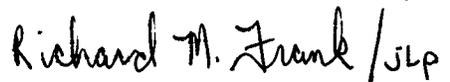
Speaking only for the two of us, we reject your assertion that Sacramento should be free of responsibility for the consequences of its action. We also have no intention of supporting your requested modification of draft Strategic Plan language which would preempt or prejudice the eventual conclusions of the State Water Resources Control Board (see your August 1, 2008 detailed letter).

Sincerely,



PHILLIP Y. EISENBERG

PLI/RF



RICHARD M. FRANK

Attachments: Governor's Executive Order
List of Stakeholder Coordination Group Members

cc: Sacramento County Supervisors
Sacramento County Executive
Sacramento County Counsel
Illa Collin
Sacramento City Councilmember Rob Fong
Sacramento County Regional Sanitation District
Delta Vision Blue Ribbon Task Force Members



EXECUTIVE ORDER S-17-06

09/28/2006

WHEREAS the Sacramento-San Joaquin Delta estuary, including Suisun Bay and Marsh (hereafter "Delta"), supports a unique and irreplaceable combination of environmental and economic resources. The Delta is a source of water for farmlands, growing communities and businesses and provides a unique estuarine habitat for many resident and migratory fish and birds, some listed as threatened or endangered species. It is an area that supports vital energy, transportation, communications and water facilities, and important agricultural, recreational and cultural resources. The Delta is of state and national significance and must be protected and managed effectively for the future well being of the people and the environment; and

WHEREAS the Delta is intersected by highways, roads, and utility lines critical to regional, state and interstate commerce and economy; and

WHEREAS the Delta is the hub of California's two largest water distribution systems, the federal Central Valley Project and State Water Project, and at least 7,000 other permitted water diverters have developed water supplies from the watershed feeding the Bay-Delta estuary, providing drinking water to about 23 million people and irrigation water to about 7 million acres of highly productive agricultural lands; and

WHEREAS recent events like the Lower Jones Tract levee failure and Hurricane Katrina, and recent findings that indicate a two in three chance of a major earthquake occurring in or near the Delta in the next fifty years, have raised awareness and concerns about the vulnerability of Delta levees. Failure of Delta levees can have devastating consequences on farms, communities, roads, railways, power and fuel transmission lines, water conveyance and quality, wildlife resources, and the local and state economy; and

WHEREAS threats such as an aging levee system, regional climate change, rising sea levels, seismic events and urbanization pose an imminent threat to the Delta; and

WHEREAS recent legislation, a number of planning efforts and scientists have affirmed that current uses and ecosystem health in the Delta are unsustainable over the long-term; and

WHEREAS there is growing recognition that prior Delta and Suisun strategic planning efforts have been too narrowly focused on only a few of the Delta's many uses and resources; and

WHEREAS the combined threats and changing conditions within the Delta require immediate attention because of the

potentially catastrophic environmental and economic consequences if timely action is not planned for and undertaken; and

WHEREAS the existing complex system of Delta governance has been criticized because no one level of government is fully in charge, or capable of responding in an orderly and effective way to address and mitigate the range of threats to the Delta.

NOW, THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California, by virtue of the power vested in me by the Constitution and statutes of the State of California, do hereby order effective immediately:

1. I hereby initiate the Delta Vision and establish an independent Blue Ribbon Task Force to develop a durable vision for sustainable management of the Delta. Making the Delta more sustainable will require a concerted, coordinated and creative response from leaders at all levels of government, stakeholders, academia and affected communities, and will require significant private and public partnerships and investments. The Delta Vision is designed to accomplish these goals:

- (a) Meet the requirements of Assembly Bill 1200 (Water Code Sections 139.2 and 139.4), Assembly Bill 1803 (Water Code Section 79473) and SB 1574.
- (b) Coordinate and build on the many ongoing but separate Delta planning efforts.
- (c) Assess the risks and consequences to the Delta's many uses and resources in light of changing climatic, hydrologic, environmental, seismic, and land use conditions. This assessment will look at:
 - The environment, including aquatic and terrestrial functions and biodiversity.
 - Land use and land use patterns, including agriculture, urbanization, and housing.
 - Transportation, including streets, roads, highways, waterways, and ship channels.
 - Utilities, including aqueducts, pipelines, and gas/electric transmission corridors.
 - Water supply and quality, municipal/industrial discharges and urban and agricultural runoff.
 - Recreation and tourism, including boating, fishing, and hunting.
 - Flood risk management, including levee maintenance.
 - Emergency response.
 - Local and state economies.
- (d) Develop a program for sustainable management of the Delta's multiple uses, resources and ecosystem. Sustainable management of the Delta means managing the Delta over the long term to restore and maintain identified functions and values that are determined to be important to the environmental quality of the Delta and the economic and social well being of the people of the state. As part of the Delta Vision, priority functions and values will be identified, and measures necessary to provide long-term protection and management will be evaluated.
- (e) Develop a Strategic Plan to implement findings and recommendations for public policy changes, public and private investment strategies, Delta-Suisun preparedness and emergency response plans for near-

term catastrophic events, levee maintenance options, and how to monitor and report performance.

- (f) Develop recommendations on institutional changes and funding mechanisms necessary for sustainable management of the Delta. Recommendations may include a discussion of oversight, land use and implementation authorities.
- (g) Inform and be informed by current and future Delta planning decisions such as those pertaining to the CALFED Bay-Delta Program, Bay Delta Conservation Plan, Suisun Marsh Plan, Water Plan, updates of related General Plans, transportation and utilities infrastructure plans, integrated regional water management plans, and other resource plans.

2. The Secretary of the Resources Agency as chair, and the Secretaries of the Business, Transportation and Housing Agency, Department of Food and Agriculture and the California Environmental Protection Agency, along with the President of the Public Utilities Commission shall be the Delta Vision Committee, for the Delta Vision. They shall undertake the following:

- (a) Explore entering into agreements with private and non-governmental organizations to receive funding for Delta Vision. In addition, the Director of Finance may also accept monetary and in kind contributions to support the activities of the Delta Vision.
- (b) Create a Stakeholder Coordination Group to involve local government, stakeholders, scientists, engineers, and members of the public in this effort to develop a Delta Vision.
- (c) Select Delta Science Advisors from diverse scientific disciplines to provide independent review and advice to the Blue Ribbon Task Force on technical, scientific, and engineering data, analyses, and reports.
- (d) Report to the Governor and the Legislature by December 31, 2008 with recommendations for implementing the Delta Vision and Strategic Plan.

3. I will appoint the members of a Blue Ribbon Task Force to include diverse expertise and perspectives, policy and resource experts, strategic problem solvers, and individuals having successfully resolved multi-interest conflicts. The Task Force will seek input from a broad array of public officials, stakeholders, scientists, and engineers. The Task Force will prepare an independent public report that will be submitted to the Delta Vision Committee and Governor that sets forth its findings and recommendations on the sustainable management of the Delta by January 1, 2008 and a Strategic Plan to implement the Delta Vision by October 31, 2008.



4. Upon submittal of the Delta Vision Committee's recommendations to the Governor and Legislature, the Delta Vision initiative shall terminate unless extended by another executive order.

5. This order is not intended to create, and does not create, any right or benefit, whether substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, agents, or any other person.

IN WITNESS WHEREOF I have here unto set my hand and caused the Great Seal of the State of California to be affixed this 28th day of September 2006.

Stakeholder Members

Name	Organization
Acosta, Juan	Director, Government Affairs, Burlington Northern – Santa Fe RR
Bendsen, Linda	Board Member, Recreational Boaters of California
Beuttler, John	Conservation Director, California Sportfishing Protection Alliance
Birmingham, Tom	General Manager and General Counsel, Westlands Water District
Bobker, Gary	Program Director, Bay Institute
Broderick, Ryan	Executive Director, Northern California Water Association
Cabaldon, Chris	Mayor of West Sacramento
Cain, John	Director of Restoration Programs, Natural Heritage Institute
Chappell, Steve	Executive Director, Suisun Resource Conservation District
Clark, Lenora	President, Recreational Boaters of California
Coglianesse, Marci	BDPAC and Co-chair of Delta Levees and Habitat Committee
Cosio, Gilbert	Principal Engineer, MBK
Davis, Debbie	Legislative Analyst for Environmental Justice Coalition for Water
Dym, Joan	Executive Director, So. California Water Committee
Ferguson, Bob	Vice-chair, South Delta Water Agency; Ferguson Farms
Fiorini, Randy	Director, Turlock Irrigation District
Flinn, Tom	Director, San Joaquin Public Works Department
Gaines, Bill	President, California Outdoor Heritage Alliance
Gartrell, Greg	Assistant General Manager, Contra Costa Water District
Grader, Zeke	Executive Director, Pacific Coast Federation of Fishermen's Associations
Guy, David	General Manager, Northern California Water Association
Hardy, Kathryn	Attorney, California Rural Legal Assistance Foundation, Inc
Hurlbutt, Tom	Civil Engineer, J.G. Boswell
Johnson, Steve	Director of Strategic Initiatives, Nature Conservancy
Kaspar, Jeff	Deputy Port Director of Properties and Environment, Port of Stockton
Kightlinger, Jeff	General Manager, Metropolitan Water District
LaMar, Steve	Chair, Building Industry Association Water Resources Subcommittee
McGowan, Mike	Yolo County Supervisor
Minton, Jonas	Senior Planner, Planning and Conservation League
Moran, Anson	General Manager, Delta Wetlands Project
Mulcahy, Gary	Winnemem Wintu Tribe
Nelson, Barry	Senior Policy Analyst, Natural Resources Defense Council
Nera, Valerie	Legislative staff for the California Chamber of Commerce
Rosekrans, Spreck	Senior Analyst, Environmental Defense
Rosen, Rudy	Director of Operations - Western Regional Office, Ducks Unlimited
Ross-Leech, Diane	Manager of Environmental Support and Service, PG&E
Scheuring, Chris	Director, Water Resources, California Farm Bureau Federation
Shabazian, David	Sr. Planner, SACOG
Simonsen, Arne	Councilmember, City of Antioch, ABAG
Tatayon, Susan	Assistant Director, CA Water Program, The Nature Conservancy
van Loben Sels, Topper	Member of the DPC, Grower
Wilson, Mark	Chair, Wilson Farms and Wilson Vineyards
Wunderman, Jim	President and CEO, Bay Area Council
Zlotnick, Greg	Special Counsel to the CEO for Strategic Planning and Delta Policy, Santa Clara Valley Water District
Zuckerman, Tom	Co-counsel, Central Delta Water Agency