

NORTH DELTA WATER AGENCY

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April 11, 2016

The Honorable Marc Levine, Chair
Assembly WP&W Committee
1020 N St., Room 160
Sacramento, CA 95814

SUBJECT: Support for Assembly Bill 2583 (Frazier) to update the Delta Reform Act.

Dear Assemblyman Levine:

The North Delta Water Agency (NDWA/Agency) has adopted a support position on AB 2583 authored by Assemblyman Jim Frazier. Created by a special act of the State Legislature in 1973, the NDWA was established to protect the water quality and availability within its 300,000 acre boundaries, and subsequently secured a contract with the CA Department of Water Resources in 1981 for the assurance of a dependable supply of water that meets water quality criteria based on historical salinity levels.

Unfortunately, the current environmental review documents for WaterFix disclose significant unavoidable (unmitigated) impacts in the Delta including depleting local groundwater supplies,¹ interfering with agricultural irrigation and drainage operations,² and water quality degradation, including increases in toxic algae blooms,³ mercury concentrations,⁴ and salinity levels.⁵ In addition, recent disclosures about an investigation by the U.S. Interior Department's Inspector General of WaterFix's possible illegal use of federal funding and a fine recently issued by the federal Securities and Exchange Commission against Westland's Water District calls into question the fiscal integrity of the billions of dollars needed to construct and properly mitigate new water conveyance facilities in the Delta.

AB 2583 would provide mechanisms to ensure that implementation of WaterFix will be in compliance with NDWA's contract, and also fiscally protect ratepayers in areas dependent on water exported from the Delta by requiring financial agreements defining how much they will need to pay be legally executed prior to starting construction.

The BDCP and associated assumptions originally contemplated when the Delta Reform Act was approved in 2009 changed substantially in April 2015 when the Brown Administration abandoned preparation of the conveyance project in accordance with California's Natural Community Conservation Planning standards for protecting and recovering endangered species, and replaced BDCP with two

¹ Recirculated Environmental Impact Report and Supplemental Environmental Impact Statement (RDEIR/SDEIS), Chapter 31, Table 31-1, GW1.

² Ibid, GW5 and AG2.

³ Ibid, WQ32 and WQ 33.

⁴ Ibid, WQ14.

⁵ Ibid, WQ11.

independent water conveyance and habitat projects in terms of permitting and financing: CA WaterFix and CA EcoRestore. Despite the project cost escalating from the initial \$3 billion estimate to approximately \$17 billion now,⁶ the amount of water beneficiaries can expect to receive from the WaterFix is projected to be less than originally anticipated.

AB 2583 will help to reduce confusion over statues that were drafted for a project that has since been abandoned and address more recent issues that have arisen since 2009, including the sequencing of the periodic modification of the Delta Water Quality Control Plan standards (D-1641) which have not been updated for nearly twenty years and quasi-judicial hearings for the approval of SWP/CVP water rights permits to allow the construction of new diversion intakes on the Sacramento River as part of the WaterFix project that are occurring simultaneously at the State Water Resources Control Board.

NDWA supports this bill's attempt to comprehensively eliminate existing ambiguities by clarifying the current legislative expectations for newly proposed water conveyance projects in the Delta by providing guidance relating to construction, baseline water quality conditions, development of new water conveyance policies for the Delta Plan, and the long-term oversight of the effectiveness of hundreds of mitigation measures intended to protect the Delta's natural resources, species, flood control, recreational values, and agricultural economy as required in existing law. Because it was assumed in 2009 that BDCP would be approved by 2012, the Delta Plan adopted by the Delta Stewardship Council did not include policies for water conveyance. Since the Council is currently at the start of a two year process to develop new conveyance policies, AB 2583 will provide timely legislative direction to the Council regarding components that should be included.

Consistent with the role of the Delta Science Program to facilitate independent peer review of plans, projects, processes, and programs in the Delta,⁷ such as the annual review and recommendations on State Water Project/Central Valley Project operational issues, AB 2583 proposes the same activity be conducted annually for WaterFix. Providing this review authority is also consistent with the Delta Independent Science Board's comment letter on the 2015 WaterFix environmental review documents, which recommends evaluating the effectiveness of mitigation and adaptive management measures during WaterFix implementation.⁸

To provide assurances to Delta communities that transparent independent scientific oversight and fiscal accountability for any new Delta conveyance facilities will be implemented as part of the coequal goals established in the 2009 Delta Reform Act, the NDWA respectfully requests an "aye" vote on AB 2583.

Sincerely,

Melinda Terry,
Manager

Cc: The Honorable Jim Frazier
Members of the Assembly Water, Parks & Wildlife Committee

⁶ Reported in constant 2012 dollars, California Debt and Investment Advisory Commission, "*The Bay Delta Conveyance Facility: Affordability and Financing Considerations*," prepared by Blue Sky Consulting Group, November 2014.

⁷ Delta Science Program, "*Procedures for Independent Scientific Peer Review*," October 26, 2011.