

**MWD**

METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA

Executive Office

August 24, 2009

Senator Fran Pavley
California State Senate
State Capitol, Room 4032
Sacramento, CA 95814

Assembly Member Jared Huffman
California State Assembly
State Capitol, Room 3120
Sacramento, CA 95814

**Re: Joint Informational Hearing of Senate Natural Resources and Water Committee
and Assembly Water, Parks and Wildlife Committee: August 25, 2009
Delta Preprint Package (PAB 1, PSB 1 and PSB 4)**

Dear Senator Pavley and Assembly Member Huffman:

The Metropolitan Water District of Southern California submits the following written comments for the August 25 joint informational hearing on three preprints that pertain to Delta governance and planning (PAB 1, PSB 1 and PSB 4) that pertain to Delta governance and planning. Following the August 18 overview hearing on the broader Delta/water legislative package, Metropolitan seeks to be responsive to requests for specific feedback on the three proposals in order to create an achievable, workable package this session.

Metropolitan strongly urges that PAB 1 and PSB 1 incorporate the Bay Day Conservation Plan (BDCP) as the cornerstone of a successful Delta Plan. The goal of the BDCP is to meet the "gold standard" of environmental compliance for California through the first Natural Community Conservation Plan for aquatic and terrestrial species. This is a key action plan for the Delta that will link necessary ecosystem improvements to changes in the water conveyance system in order to meet the co-equal goals of ecosystem restoration and water supply reliability. It is important to recognize two important attributes of the BDCP process in order to refine the governance/planning bills into something that does not inadvertently hamper progress in the Delta:

- **Bay Delta Conservation Plan's Comprehensive Permitting/Review Process.** As a habitat conservation plan under the state and federal Endangered Species Acts with five state and federal agencies as co-leads, BDCP faces an exhaustive approval process. There will be numerous approvals necessary by various local, regional, state and federal agencies to implement the comprehensive suite of conservation measures. Examples

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include permits from the U.S. Army Corps of Engineers to comply with the Clean Water Act, permits from regional air quality districts to comply with the Clean Air Act, levee/encroachment permits from the Central Valley Food Protection Board and surface water right permits from the State Water Resources Control Board. Both state and federal wildlife and water agencies would have to sign agreements and issue permits for the BDCP to take effect. Metropolitan questions the value of an additional approval process by a new Delta Stewardship Council on top of the existing peer-review and approval processes that are already embedded into the BDCP.

- **BDCP's Adaptive Management Strategy/Instream Flows.** The preprint legislation has a "cart-before-the-horse" approach to setting future instream flow standards in the Delta that is not consistent with the SWRCB's Delta Strategic Plan, BDCP or the use of an adaptive management "best science" strategy. As an estuary that is rapidly evolving due to numerous factors, including sea level rise, instream flow standards will be subject to ever-changing conditions. BDCP will establish a Delta instream flow regime satisfactory to the state and federal wildlife agencies in exchange for permit authority to operate the future water system. This regime will be the basis of the SWRCB's own deliberations for establishing Delta water quality and flow standards. The SWRCB cannot accurately set future standards without specific information on ecosystem and water system improvements. Even after setting initial standards, flow requirements undoubtedly will evolve over time along with the Delta. Forcing the SWRCB to make premature decisions on instream flow standards will lead to a decision that is not based on the best available science.
- **Delta Conservancy.** Metropolitan supports a Delta Conservancy as a way to centralize state expertise in habitat restoration. Proposals to limit the conservancy's ability to purchase and hold land, as currently proposed in PSB 4, will not facilitate the co-equal goals of water supply reliability and ecosystem restoration. Metropolitan supports a conservancy with a long-term role in habitat restoration that is not impeded by legislative restraints.

Although the three issues identified above reflect major concerns by Metropolitan, Metropolitan's August 13 comment letter executed by Board Chairman Timothy F. Brick, with attached staff analyses, reflect the broader array of issues that will require attention in the days ahead. Metropolitan fully supports a comprehensive solution to the Delta and looks

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forward to working with you and your staff to create a historic package of legislation this session.

Sincerely,



Jeffrey Kightlinger
General Manager

cc: Senate President pro Tem Darrell Steinberg
Assembly Speaker Karen Bass
Senator Dennis Hollingsworth
Assembly Member Sam Blakeslee

Members of the Senate Natural Resources and Water Committee
Members of the Assembly Water, Parks and Wildlife Committee

Kip Lipper, Policy Consultant, Office of the Senate President pro Tem
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John Moffatt, Chief Deputy Legislative Secretary, Office of the Governor
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