



DRAFT

**SUMMARY: OCTOBER 27, 2022
DELTA STEWARDSHIP COUNCIL MEETING**

For review and adoption by the Council at the November 17, 2022, meeting.

All meeting materials, presentations, and comment letters are available at
<https://deltacouncil.ca.gov/council-meetings>

MEETING SUMMARY

1. WELCOME AND INTRODUCTIONS

Chair Virginia Madueño called the meeting to order at 9:00 AM on October 27, 2022.

2. ROLL CALL - ESTABLISH A QUORUM (WATER CODE §85210.5)

Roll call was taken, and a quorum was established. The following councilmembers were present: Frank Damrell, Julie Lee, Virginia Madueño, and Daniel Zingale.

Councilmember Don Nottoli joined during agenda item 9, and Councilmember Christy Smith was absent.

3. CONSENT CALENDAR (ACTION ITEM)

Chair Madueño presented for adoption the September 22, 2022, Meeting Summary and Resolution 2022-06 for a Contract with the University of Vermont, part of the 2021 Delta Science Proposal Solicitation (Contract #22030).

Motion: (approve the consent calendar) offered by Councilmember Damrell, seconded by Councilmember Lee

Vote: 4/0 - The motion was adopted (Damrell: Aye, Lee: Aye, Madueño: Aye, Zingale: Aye).

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:02:31.

4. CHAIR'S REPORT (INFORMATION ITEM)

Chair Madueño thanked Legislative Director Brandon Chapin for helping her navigate multiple “meet and greets” with Senators Dodd and Laird, and Assemblymembers Aguiar-Curry, Bauer-Kahan, Grayson, and Wilson and remarked that she looks forward to meeting with Senator Eggman and Assemblymember Flora sometime in the future.

Chair Madueño also shared her thoughts on the Science for Communities Workshop, a Metropolitan Water District of Southern California Island Tour (floating wetlands, modernization plan, Delta Smelt propagation project), Dos Rios Groundbreaking (newest State Park in California), an invitation to converse with key individuals in the Delta by Tom Slater, and a schoolhouse benefit (fundraiser) in Clarksburg.

Chair Madueño closed with her plan to visit the Downtown Modesto Rotary and a few comments regarding her first attendance at a Collaborative Science and Adaptive Management Program policy group meeting.

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:03:31.

5. PUBLIC COMMENT

There was no public comment.

6. EXECUTIVE OFFICER'S REPORT (INFORMATION ITEM)

Executive Officer Jessica Pearson opened with an update that the Department of Water Resources extended the public comment period for the Draft EIR of the Delta Conveyance Project. The new due date is December 16, 2022, and comments can be submitted by email to deltaconveyancecomments@water.ca.gov or by mail to the address that can be found on DWR's website.

Next, Pearson spoke on a comment letter sent on behalf of the Council—staff sent a comment letter to San Joaquin County regarding a proposed amendment to their County Development Title (or zoning code).

Council staff raised concerns about the County's proposal to remove existing requirements that agricultural mitigation lands be held in trust in perpetuity. The current recommended proposal would require mitigation easements to be held in

trust in perpetuity and remain with the land regardless of ownership, which is consistent with our Delta Plan agricultural mitigation standards. The letter also expressed appreciation for the efforts County staff have made to include the Council in these discussions and to find a resolution.

Pearson announced two promotions for Council staff; Rachael Klopfenstein has been promoted to Environmental Program Manager of the Collaborative Science and Peer Review Unit, and Beck Barger has been promoted to Public Participation Manager.

In closing, Pearson spoke on welcoming Secretary Wade Crowfoot kicking off the meetings discussion on regional water self-reliance, the Council's deliberation on the amendments to the Council's Administrative Procedures Governing Appeals for covered actions, and a moment of remembrance for former Natural Resources Secretary Mike Chrisman.

6a. Legal Update (INFORMATION ITEM)

There was no legal update.

6b. Legislative Update (ACTION ITEM)

There was no legislative update.

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:11:23.

7. LEAD SCIENTIST REPORT (INFORMATION ITEM)

Lead Scientist Dr. Laurel Larsen featured the study: *"Diel Behaviors of Zooplankton Interact with Tidal Patterns to Drive Spatial Subsidies in the Northern San Francisco Estuary"* Rowan Yelton, Anne M. Slaughter, and Wim J. Kimmerer. *Estuaries and Coasts* (2022) 45:1728-1748. Dr. Larsen detailed topics from the article and sought to explain the importance of this work and how this effort, funded by the Delta Stewardship Council and State Water Contractors, directly addresses actions 3 and 5 of the 2022-2026 Science Action Agenda.

Following the introduction of the article, Dr. Larsen spoke on Delta Science Program Activities. The California Sea Grant Fellows Recruitment for 2023 Cohort and the Delta Breeze Newsletter—the October 2022 edition of the Delta Breeze was released via the Council listserv on October 4, 2022.

Dr. Larsen also highlighted the Social Science Community of Practice: Advancing Interdisciplinary Research Training and Workshop (October 14th and 20th) and the Science for Communities Workshop (October 6th) and the importance of working with communities like the California Indian Environmental Alliance, Sacramento Regional Coalition to End Homelessness, Sustain Our Abilities, Public Health Advocates, Restore the Delta, and Little Manila Rising.

In conclusion, Dr. Larsen closed with a few words on the Harmful Algal Bloom Workshop (two-day hybrid meeting, scheduled for November 8 and 9th, 2022 at 9 am PST), the Salinity Management Workshop Focus Working Group Meetings (modeling exercise), and an overview of the By the Numbers report.

Steve Culberson reported on the U.S. Fish and Wildlife Service's proposal to list the San Francisco Bay-Delta distinct population segment of longfin smelt as an endangered species under the Endangered Species Act. Longfin smelt are currently listed as threatened under California's Endangered Species Act; a federal listing as endangered would upgrade protections to include protection of their habitat. Listing would also require federal agencies to consult with the U.S. Fish and Wildlife Service when proposing projects within longfin smelt's range. A 60-day comment period on the listing began on October 7, 2022.

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:18:50.

8. DELTA ISB REAPPOINTMENT (ACTION ITEM)

Lead Scientist Dr. Laurel Larsen recommended that the Council reappoint Delta Independent Science Board (Delta ISB) Member Dr. Thomas Holzer, whose first term is coming to an end on January 2, 2023. If reappointed, Dr. Holzer's second five-year term would be from January 3, 2023, to January 2, 2028.

Dr. Larsen made clear that the Council appointed Dr. Holzer on November 16, 2017, and his term started on January 2, 2018. During his tenure on the Delta ISB, Dr. Holzer played a significant role in the Delta ISB's water supply reliability review, which was presented to the Council in June 2022, and is now leading a review on subsidence reversal.

Dr. Larsen spoke on Dr. Holzer's service prior to the Delta ISB and his expertise in earthquake-induced liquefaction, including evaluating hazards and risks of liquefaction, and land subsidence caused by groundwater withdrawal.

Based on his qualifications and contributions to the Delta ISB, Dr. Larsen recommended reappointing Dr. Holzer for a second term. His second term would begin January 3, 2023, and end January 2, 2028.

Motion: Offered by Zingale, second by Lee.

Vote: 4/0 – The motion was adopted (Damrell: Aye, Lee: Aye, Zingale: Aye, Madueño: Aye).

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:41:54.

9. REDUCING RELIANCE ON THE DELTA THROUGH IMPROVED REGIONAL WATER SELF-RELIANCE (INFORMATION ITEM)

Executive Officer Jessica Pearson welcomed the panel of water representatives from across the state and acknowledged reduced reliance on the Delta as an essential part of achieving the State's coequal goals, identifying reduced reliance as part of the regulatory framework of the Delta Plan.

California Natural Resources Agency Secretary Wade Crowfoot provided context for the panel in relation to the Governor's water supply strategy, introduced in August, which built on the water resilience portfolio. Secretary Crowfoot outlined the challenges California faces – as the fourth largest economy in the world, home to 40 million people, and one of the most biodiverse places in the world – to restore ecological function to the Delta while providing reliable fresh water to 27 million people and respecting Delta communities in the face of climate change.

Deputy Executive Officer Jeff Henderson provided background on reduced reliance on the Delta and improved self-reliance and introduced the panel, which, in addition to Secretary Crowfoot, included General Manager of the Metropolitan Water District Adel Hagekhalil, Director and General Manager of Los Angeles Sanitation and Environment (LASAN) Barbara Romero, and Assistant General Manager of the Coachella Valley Water District (CVWD) Robert Cheng.

Hagekhalil emphasized the need for collaboration to create a future that is a balanced future for water in our state and shared his vision of “One Water,” a holistic solution to climate change adaptation where no one is left behind.

Romero stated that customer service and equity are the drivers of LASAN’s work. She highlighted that working together is critical to addressing water reliability challenges and that Los Angeles needs the support of the State.

Cheng outlined the uniqueness of the Coachella Valley, made possible by a reliable water supply, and that the region is learning to live with less [water]. Cheng acknowledged the efforts the district and its customers have made to promote efficient water use and pointed out that the region’s agricultural water use is among the most efficient and that CVWD is investing in water supply reliability while ensuring that the sacrifice which comes with the climate crisis does not fall disproportionately on disadvantaged communities.

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 00:46:42.

10. CONSIDERATION AND POSSIBLE ADOPTION OF AMENDMENTS TO THE COUNCIL’S ADMINISTRATIVE PROCEDURES GOVERNING APPEALS (ACTION ITEM)

After the September 22, 2022, workshop, staff was directed by the Council to revise the first draft (December 2021 Draft) of the Council’s Administrative Procedures Governing Appeals (“Appeals Procedures”) in consideration of public and Council comments received. Staff distributed the revised version of the proposed amended Appeals Procedures for public review on October 13, 2022 (October 2022 Draft) and presented the October 2022 Draft and Resolution 2022-07 for possible adoption by the Council.

Executive Officer Jessica Pearson introduced Deputy Executive Officer Jeff Henderson, who presented a background on covered actions and appeals, one component of the Council’s regulatory authority. Henderson, alongside Environmental Program Manager Eva Bush, presented the revisions in the October 2022 Draft from the December 2021 Draft.

Staff considered all the written comments received prior to the September 2022 workshop, the oral comments received at the September 22, 2022, Council meeting workshop, and input from the Council, including direction from the Council to revise the December 2021 Draft, which resulted in the October 2022 Draft. Key changes were made to rules concerning: the role of the Delta Protection Commission; the burden of proof and standard of review; certifications, early consultation, and appeals for remanded issues; early consultation following remand; public notice for draft certifications of consistency; contents of an appeal; evidentiary requests; to hearing presentations and comments; and the timeline for submitting the record.

Staff presented Resolution 2022-07 for approval and adoption of the October 2022 Draft. The October 2022 Draft included language in new Rule 11.2 that stated, in relevant part, "The council shall consider the Delta Protection Commission's comments and presentation regarding issues raised by an appellant in an appeal as those of an expert.

Councilmember Nottoli expressed his concern with the definition of "expert" and how it impacted change from "shall" to "may" in the draft amendments. Chief Counsel Jorge Aguliar explained that it was not the intent, that the Council "must" consider them as experts, but that when their comments are provided, the Council would always have the discretion to decide using their "expertise" in the Delta.

After discussion, the motion was clarified to adopt Resolution 2022-07 and approve and adopt the October 2022 Draft with a change in Rule 11.1 of "shall" to "may" so that Rule 11.1 would read, in relevant part, "The council may consider the Delta Protection Commission's comments and presentation regarding issues raised by an appellant in an appeal as those of an expert...."

The agenda item is viewable on the linked agenda at <https://bit.ly/3WpdKWk> minute 02:46:15.

Motion: (adopt Resolution 2027-07 to approve and adopt Appeals Procedures as presented with no changes) (the correct Resolution number before the Council was 2022-07) Offered by Zingale, second by Damrell.

Councilmember Nottoli reiterated his concerns about the change in language from “shall” to “may” as it relates to Rule 11.1 regarding the Delta Protection Commission’s role with the Council and would not be supporting the motion due to that change.

Henderson sought clarification to specify that Councilmember Zingale’s motion would include the presented change of “shall” to “may” in Rule 11.1. Councilmember Zingale confirmed that he intended to include the change as presented.

(adopt Resolution 2022-07 to approve and adopt Appeals Procedures as presented with a change of “shall” to “may” in Rule 11.1)

Vote: 4/1 – The motion was adopted (Damrell: Aye, Lee: Aye, Nottoli: Nay, Zingale: Aye, Madueño: Aye).

The motion and vote are viewable at <https://bit.ly/3WpdKWk> minute 3:58:17.

11. PREPARATION FOR NEXT COUNCIL MEETING

Note: the next council meeting will be held on the third Thursday.

The next Council meeting is scheduled for November 17-18, 2022; at the California Natural Resources Agency Headquarters Building at 715 P St, Sacramento, CA, 95814.

Please refer to the meeting notice posted ten days before the meeting for further information or updates.

The meeting adjourned at 2:00 p.m.

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