



**DRAFT**

**SUMMARY: NOVEMBER 17, 2022  
DELTA STEWARDSHIP COUNCIL MEETING**

For review and adoption by the Council at the December 15, 2022, meeting.

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

**MEETING SUMMARY**

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**1. WELCOME AND INTRODUCTIONS**

Chair Virginia Madueño called the meeting to order at 9:00 AM on November 17, 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: Julie Lee, Christy Smith, Virginia Madueño, and Frank Damrell.

**3. CLOSED SESSION: LITIGATION (WATER CODE §85210.5) (Action Item)**

The Council may discuss litigation matters pursuant to Government Code §11126 (e)(2)(A), (e)(2)(B)(i), and/or (e)(2)(C)(i), including: (a) Delta Stewardship Council Cases, Coordinated Proceedings JCCP No. 4758; (b) North Coast Rivers Alliance, et al. v. Delta Stewardship Council, Sacramento County Superior Ct. No. 34-2018-80002898; and (c) Takahashi v. Delta Stewardship Council, Sacramento County Superior Ct. No. 34-2018-00232084.

Councilmembers Nottoli and Zingale joined the meeting during this agenda item.

**4. RECONVENE OPEN SESSION (ESTIMATED START TIME: 10:00 AM)**

**5. ROLL CALL – ESTABLISH A QUORUM (WATER CODE §85210.5)**

Roll call was taken, and a quorum was established. The following councilmembers were present: Damrell, Lee, Nottoli, Smith, Madueño, and Zingale.

## **6. CONSENT CALENDAR (ACTION ITEM)**

Chair Madueño presented for adoption the October 27, 2022, Meeting Summary.

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

**Vote:** 4/0 - The motion was adopted (Damrell: Aye, Lee: Aye, Nottoli: Aye, Smith: Aye, Madueño: Aye)

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 00:03:33.

## **7. CHAIR'S REPORT (INFORMATION ITEM)**

Chair Madueño thanked Executive Officer Jessica Pearson and Environmental Program Manager Rachael Klopfenstein for joining her at the Modesto Rotary Club for a presentation to approximately 135 online and in-person attendees. Both Pearson and Klopfenstein helped explain the Delta Stewardship Council's role and responsibilities and were well received in the Modesto community.

Chair Madueño also spoke on her meetings with Senator Eggman and Assemblymember Flora and took a moment to highlight that Delta issues are not wholly party issues, but Californian issues, and that she was excited to see the enthusiasm on both ends in addressing these topics.

Chair Madueño asked if there were any further councilmember updates.

Pearson pointed out that they also meet with the Region 9 administrator from USEPA Martha Guzman. Guzman expressed a willingness to work with the Council and to keep an open dialogue open between the two agencies moving into the future.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 00:04:36.

## **8. PUBLIC COMMENT**

There was a public comment from Dominic Gulli regarding the Smith Canal Gate and the current unfinished state of the project.

## 9. EXECUTIVE OFFICER'S REPORT (INFORMATION ITEM)

Executive Officer Jessica Pearson opened with an update regarding regulatory authority and highlighted that for a second time since the Council's establishment in 2010, the Council's regulatory authority and the legality of the Delta Plan has been upheld in court.

On November 4, the Superior Court of California ruled in favor of the Council regarding challenges to two 2018 amendments to the Delta Plan and its corresponding CEQA documents. These were the amendments on performance measures and to Chapter 3 of the Delta Plan, dealing with recommendations for conveyance, storage, and the operations of both.

This decision reaffirmed the broad authority given to the Council by the Legislature for achieving the goals and objectives of the Delta Reform Act. Pearson expressed her sincere appreciation to all the Council staff, lead scientists, Councilmembers, and Delta ISB members, past and present, who contributed to the amendment and its defense.

Next, Pearson spoke on two active covered action certification submittals, both from the Central Valley Flood Protection Board and tied to the overarching American River Watershed Common Features Project.

First, a certification was submitted for the Sacramento River Erosion Contract 2 Project. The project seeks to restore the Sacramento River east levee's structural integrity to prevent bank erosion and reduce impacts to habitat.

The second certification was for the Sacramento River East Levee Contract 4 Project, just south of here. The project seeks to make levee improvements to almost 13,000 cumulative feet of levee through raises, flood walls, and cut-off walls.

Both projects' public review periods close on November 30, 2022, and both [letters](#) can be viewed on the Council's website.

Pearson spoke about a Council comment letter to the Department of Water Resources (DWR) regarding the draft of the 2022 Solicitation Package for Multi-benefit Projects. Up to \$37M from Prop 84 and Prop 1 has been made available for this funding package to fund multi-benefit projects, which promote levee

improvements, habitat enhancement, emergency response, seismic resiliency, or export water supply reliability. The letter included staff comments on the solicitation package and encourages the DWR to engage with Council staff as the package is finalized.

In closing, Pearson shared that the Council would have another Executive Fellow, Viet-Long Nguyen. During his fellowship, Viet-Long will be mentored by Special Assistant for Planning and Science Amanda Bohl and Legislative and Policy Advisor Brandon Chapin, assisting with external affairs efforts with other agencies through DPIIC and outreach to the Legislature.

There was no legal update, and there was no legislative update with the Legislature out of session.

**9a. Legal Update (INFORMATION ITEM)**

There was no legal update.

**9b. Legislative Update (ACTION ITEM)**

There was no legislative update.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 00:14:00.

**10. LEAD SCIENTIST REPORT (INFORMATION ITEM)**

Lead Scientist Dr. Laurel Larsen featured the article:

*“Colby Hause, Gabriel Singer, Rebecca Buchanan, Dennis Cocherell, Nann Fangue, and Andrew Rypel. Canadian Journal of Fisheries and Aquatic Sciences (2022)”*

<https://doi.org/10.1139/cjfas-2021-0243>, an article that speaks on the High-profile effort to reintroduce hatchery-raised juvenile spring-run Chinook Salmon to the San Joaquin River and the challenges of low rates of survival.

Dr. Larson shared that the reasons for those low survival rates remain poorly understood, and that only recently have advances in sensing technology—including networks of acoustic “listening stations” that track the movement of tagged fish, and boat-mounted water quality sensors—made it possible to study the association between spatially and temporally varying survival rates and water quality. These advances, funded in part by the Delta Science Program, made it possible for this team of UC Davis and University of Washington researchers to test competing

hypotheses about factors that govern variations in the survival rate of juvenile spring-run Chinook.

Dr. Larsen provided an overview of the Bay-Delta Social Science Community of Practice Advancing Interdisciplinary Research Event. Last month the Council and the Bay-Delta Social Science Community of Practice hosted a virtual two-part “Advancing Interdisciplinary Research” event to promote interdisciplinary research and build connections for the development of interdisciplinary research teams of social and biophysical scientists in the Bay-Delta.

On October 14th, 84 people attended a training that was held to provide background on social science disciplines and interdisciplinary research and on October 20th, 59 attendees joined the interactive workshop, which included presentations from the Delta Independent Science Board and three collaborative science groups (CSAMP, IEP & WRMP) that support the advancement of interdisciplinary research in the Delta and breakout sessions for participants to develop mock proposals to address interdisciplinary management needs from the 2022-2026 Science Action Agenda.

The video recordings and materials are posted on the Council’s Social Science Community of Practice webpage events tab (<https://deltacouncil.ca.gov/bay-delta-social-science-community-of-practice>) and the Council’s YouTube channel (<https://www.youtube.com/user/DeltaCouncil/featured>).

Dr. Larsen also highlighted the Harmful Algal Blooms Workshop, a two-day hybrid workshop, that was held on November 8-9th, 2022, with in-person attendance at the California Natural Resources Headquarters and the Water Temperature Modeling Platform Independent Review Panel Report Releases.

Dr. Larsen closed with a few “on your radar” items that included: the Integrated Modeling Framework Workshop, the Ask-Me-Anything (AMA) Sessions having been resumed on Zoom, and the “By the Numbers” summary of current numbers related to Delta water and environmental management.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 00:44:06.

**11. ECOSYSTEM RESTORATION PROGRESS REVIEW UPDATE (INFORMATION ITEM)**

Executive Officer Jessica Pearson introduced the Ecosystem Restoration Progress Review Update (Review). Pearson described that the Delta Science Program's Ecosystem Restoration Progress Review seeks to summarize progress to date on Chapter 4 of the Delta Plan, discusses the policy motivations for restoration projects, and reviews the best available management-relevant science.

Pearson explained that Council staff would discuss these and other findings from the draft Ecosystem Restoration Progress Review paper in the context of the Delta Plan and Delta Plan Interagency Implementation Committee Restoration Subcommittee activities.

Adaptive Management Liaison (Senior Environmental Scientist) Dylan Chapple presented on the Ecosystem Restoration Progress Review for the Delta and Suisun Marsh.

The Ecosystem Restoration Progress Review was led by Council staff to form the basis for future synthesis of restoration and evaluation of Chapter 4 performance measures by providing a baseline of restoration projects across the landscape. The Ecosystem Restoration Progress Review included information on the relative contributions of projects across these policy considerations to help the Council, the DPIIC RSC, and others identify potential policy pathways for meeting Delta Plan restoration targets.

Chair Madueño and Chapple discussed the tidal wetland areas of the presentation having the greatest projected metrics, whereas nontidal wetlands and riparian floodplains could see some improvement. Chapple elaborated on the drawbacks of using the legal Delta boundary and how it sometimes excludes important projects, just outside of its borders.

Councilmember Nottoli and Chapple discussed how impacts from the upper estuary would be measured and how the Review sets a baseline for future work and provides an opportunity for questions and conversations in the future.

*Daniel Councilmember Zingale rejoined the meeting remotely during this agenda item and was logged in as Chuck S.* Councilmember Zingale had a clarification question on

legal Delta project work and how some of the discussed projects were mentioned in the narrative and not in the numbers. Chapple answered Zingale's question and further explained that within the paper, these exact types of questions are addressed to ensure these methodology limitations on project work are being brought into the broader picture.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 01:08:33.

**12. PUBLIC HEARING ON PROPOSED RULEMAKING FOR SECTION 5001 (DEFINITIONS) AND SECTION 5012 (PRIORITIZATION OF STATE INVESTMENTS IN DELTA LEVEES AND RISK REDUCTION (DELTA PLAN RR P1)) OF TITLE 23 OF THE CALIFORNIA CODE OF REGULATIONS (GOVERNMENT CODE §11346.8) (ACTION ITEM)**

The Council held a public hearing for the public to present statements, contentions, and arguments, either orally and/or in writing or both regarding the proposed rulemaking action. Chair Madueño presided as the hearing officer and opened the hearing at 12:37 pm. The hearing was recorded by a certified court reporter.

Executive Officer Jessica Pearson provided an introduction regarding the 2009 Delta Reform Act and how the State Legislature directed the Council to recommend priorities for State investment in Delta levee operations, maintenance, and improvements, including for both project and non-project levees.

Pearson stated that the Reform Act also authorized the Council to request reports regarding the implementation of the Delta Plan. In general, the Legislature granted the Council broad authority in implementing the Delta Reform Act.

Following that statement, Pearson explained that in 2018, the Council followed through on the Legislature's direction by adopting the Delta Levees Investment Strategy (or DLIS), which establishes these investment priorities and requires the Department of Water Resources to submit an annual report on Delta levee investments. Those priorities were further updated in 2020 based on new levee data and presented to the Council at the meeting in August of 2021, wherein the Council directed staff to restart the rulemaking process.

After her introduction, Pearson introduced Deputy Executive Officer for Planning and Performance, Jeff Henderson, for a presentation.

Jeff Henderson and supervising water resources engineer Erin Mullin provided a presentation on the proposed rulemaking and Delta Levees Investment Strategy.

The presentation spoke on the background and authority of the Council, the DLIS strategy, proposed regulatory amendments, the rulemaking process, staff recommendations, and the public hearing.

*Public Comment*

1. Bret Baker - Reclamation District 2023
2. Dante Nomellini Sr. - Central Delta Water Agency
3. Dominick Gulli - Reclamation Districts 1007, 2024, 2072, 2039, 684, and 548 (1614 Stockton Levee)
4. Bryan Brock – DWR
5. Randy Fiorini – Former Councilmember and Council Chair
6. Gilbert Cosio – Delta Consulting
7. Tom Slater – Reclamation District 999, CVFC, Protection Commission, North Delta Water Agency
8. Kirsten Pringle – Delta Protection Commission
9. Emily Pappalardo – MBK Engineers
10. Tom Zuckerman – Landowner
11. Dan Nomellini, Jr. – Central Delta Water Agencies
12. Osha Meserve – Local Agencies of the North Delta
13. Melinda Terri – Central Valley Flood Control Association

Chair Madueño confirmed there were no additional public comments at this time and explained that comment letters could be submitted until November 21, 2022, at 5 pm.

Councilmembers Nottoli, Lee, and Chief Counsel Jorge Aguilar discussed the rulemaking process and related timelines, including staff and Council roles.

Chair Madueño confirmed that public comment would be addressed by Council Staff, and that the nature of the input would inform the next steps of the process,

and that a vote to move the process forward does not denote a dismissal of the comments received from the public.

Chair Madueño and Aguilar discussed the Council's decision-making authority. Chair Madueño thanked everyone for their hard work in this process.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 01:44:56.

**Motion:** (Adopt Resolution 2022-08, authorizing the Executive Officer, or designee, to prepare written responses, prepare other pertinent documents, and /or incorporate changes provided by the Council (making non-substantive changes and return to the Council later for further conversation) offered by Councilmember Smith, seconded by Councilmember Zingale.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 03:43:34.

Prior to the vote on the motion, Councilmember Damrell wanted to confirm that legal counsel would review the staff responses to comments before they are presented to the Council. Pearson confirmed that legal review is part of the staff process.

Henderson was asked by the Chair to outline staff and Council processes for moving forward before the adoption vote.

Councilmember Nottoli and Aguilar spoke about the importance of the comment period and of capturing input. Councilmember Zingale wanted clarification of the intent of the hearing, which was clarified by Pearson.

Dante Nomellini Sr. (Central Delta Water Agency) requested to, and provided, additional public comment.

**Vote: 6/0** - The motion was adopted (Damrell: Aye, Lee: Aye, Nottoli: Aye, Smith: Aye, Zingale: Aye, Madueño: Aye)

Chair Madueño closed the hearing.

The agenda item is viewable on the linked agenda at <https://bit.ly/3uhamjr> minute 03:59:40.

### **13. PREPARATION FOR NEXT COUNCIL MEETING**

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

The next Council meeting is scheduled for December 15-16, 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 14:52PM

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