



April 14, 2021

Via email

Stephen Brandt, Chair
Delta Independent Science Board
980 Ninth Street, Suite 1500
Sacramento, CA 95814

Re: Request that Item #4 be “Informational Only,” that consideration of Item #5 be postponed, that a briefing on the proposed legislation affecting the Delta Independent Science Board (DISB) be put on the next agenda.

Dear Chair Brandt,

California Water Research respectfully requests that you make Item #4 on the April 16, 2021 meeting agenda “Informational only,” and that any action on Item #5 be postponed until the information from the assessments by state agencies subject to review by the DISB are provided to the public.

The following provides the basis for these requests.

Request that Item #4 be “Informational Only”

When the Delta Independent Science Board members were appointed by the Delta Stewardship Council, they became officers of the state, and were given both the right and the duty to carry out the statutory mandate for their office. (Govt Code § 1001, Wat Code § 85280.)

As explained in the DISB’s Operating Guidelines, Water Code section 85280(a)(3) specifies that the statutory responsibilities of the Delta ISB members include providing “oversight of scientific research, monitoring, and assessment programs that support adaptive management of the Delta through periodic reviews of each of those programs.”

It is the DISB members, as the public office holders, who carry out the duties of their office. The DISB Operating Guidelines are clear that “[a]t all times, the Delta ISB will exercise its independent judgment.” (DISB Operating Guidelines, p. 2.)

The Operating Guidelines further state: “In pursuing this obligation, the ISB may seek advice from entities or individuals not part of the ISB.” Therefore, the topics in Item 4, and any opinions by the Delta Science Program staff as to how the Delta ISB members perform the functions of

their office, are only informational. The DISB members may consider them, discuss them, etc. but must exercise their independent judgment.

Request that consideration of Item #5 be postponed

We also respectfully request that the DISB direct the Delta Science program to publish feedback from agencies subject to the review activities of the DISB, prior to considering any action on that feedback.

Water Code section 85280 (a)(2) specifies that DISB “members shall not be directly affiliated with a program or agency subject to the review activities of the Delta Independent Science Board.” We are significantly concerned a) that it appears the DISB reviews are to be critiqued by agency staff who would not be eligible to be on the DISB, and that b) information contained in these critiques has not been provided to the public.

By its very nature, the DISB was created not only to exercise oversight, but also “to provide the best possible unbiased scientific information to inform water and environmental decisionmaking in the Delta.” (Water Code § 85280 (b)(4). Sometimes this requires speaking inconvenient truths. With collaborative science, independent reviews by the DISB members must provide a hard backstop for balance and scientific credibility.

Request that a briefing on the proposed legislation affecting the DISB be put on the next agenda

California Water Research is very aware of the current funding limitations of the DISB. We extend our deepest gratitude to the eminent scientists who have stayed on the DISB for months with little or no compensation. California Water Research is currently extensively legal researching this issue, because independent review of Delta science is a matter of great public interest and concern. We request that the DISB postpone any decision to reduce the scope or depth of DISB reviews, despite the failure of the Delta Stewardship Council to provide adequate compensation to support the statutorily mandated responsibilities of the DISB, until the actions of the Delta Stewardship Council are fully investigated and addressed.

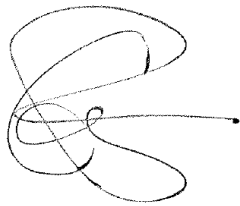
Finally, the Delta Stewardship Council staff are working with the legislature to enact legislation, Senate Bill 821, that would amend section 85280 of the Delta Reform Act to address issues of independence and compensation of the DISB. Last week, we sent the DISB members copies of two position letters on this legislation. As appointed office holders, DISB members have a right to see all documents pertaining to their office (Govt Code § 1850.) The manner by which the DISB members are compensated pertains to their office.

We request that the DISB Chair request a briefing on the legislation from the Delta Stewardship Council staff for the next meeting. Such briefings have been provided to other state boards by

their staff. For example, in January 2020, the Baldwin Hills Conservancy board members received a briefing on proposed amendments to the Baldwin Hills Conservancy Act.¹

Transparency

California Water Research also requests that the DISB Chair direct the Delta Science Program staff to put the December 30, 2020 letter from the DISB to Governor Newsom on the DISB website.



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Jessica Pearson, Executive Director, Delta Stewardship Council

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¹ Baldwin Hills Conservancy, January 2020 agenda, [20200124-BHC-Agenda.pdf](#)