May 20, 2021

Honorable Gavin Newsom
Governor of California
State Capitol
Sacramento, California 95814

Re: Request to Restore Funding for the Delta Independent Science Board

Dear Governor Newsom:

The Sacramento-San Joaquin Delta Counties Coalition (DCC) is a consortium of Contra Costa, Sacramento, San Joaquin, Solano, and Yolo Counties formed to speak with one voice on the health of the Sacramento-San Joaquin Delta. The DCC urges you to provide adequate funding for independent science in the Delta carried out by the Delta Independent Science Board (DISB).

The DCC advocates to improve the Delta ecosystem, provide a more reliable water supply for the State, and protect and enhance Delta communities. The Delta faces unprecedented challenges from climate change, which can worsen water quality and habitat conditions, and cause sea level rise and more frequent flooding. In addition, water supply, flood management and restoration projects have direct impacts on the health of the estuary and the many stakeholders that depend on it.

To meet these challenges, it is critical that best available, independent science help guide actions in the Delta. Two decades ago, California agencies joined federal agencies in signing the CALFED Record of Decision, which committed to a world class Delta science program. A key part of that commitment was to establish an Independent Science Board to provide oversight and peer review of ecosystem restoration, water supply reliability, water use efficiency and conservation, water quality, and flood management in the Delta. In 2009, the Delta Reform Act codified this commitment by establishing the Delta Independent Science Board as a standing board of the state of California. The DISB is mandated to “provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Delta.”

Oversight by the nationally prominent scientists on the DISB has never been more critical. Yet the DISB’s work to bring an independent science perspective to the Delta has recently been crippled by lack of funding. In 2020, the Delta Stewardship Council reclassified scientists on the DISB as exempt employees of the state, entitled to only $100 per diem compensation. In addition, the DISB has not been provided with adequate staff or support to complete its scientific reviews. The change to $100 per diem compensation reduced the amount that these nationally renowned scientists previously received for their work by 94%, and is less than minimum wage in California for an 8-hour day.
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The Chair of the DISB wrote to you in December 2020 requesting that the situation be remedied, and the DCC supports fulfillment of the DISB Chair’s request (attached). Senate Bill 821 is a positive step forward in that it clarifies that members of the DISB are not employees of the Delta Stewardship Council and that the members of the DISB shall exercise their scientific judgment and perform their assigned functions independently; this bill has broad support. But SB 821 does not actually restore and protect funding for independent science in the Delta. We need you to include adequate funding for Delta independent science in the state budget, and to specifically direct the Delta Stewardship Council to restore DISB’s funding and provide adequate staff support. The gap in funding over the last year must also be addressed to ensure that the DISB members will continue to serve in these critical positions.

The Delta Counties Coalition stands ready to work with you and with the Legislature on this issue. Please feel free to contact us through our coordinator Natasha Drane at 916-874-4627 or dranen@sacounty.net.

Sincerely,

Patrick Kennedy
Supervisor, Sacramento County

Mitch Mashburn
Supervisor, Solano County

Karen Mitchoff
Supervisor, Contra Costa County

Oscar Villegas
Supervisor, Yolo County

Chuck Winn
Supervisor, San Joaquin County

cc Susan Tatayon, Chair, Delta Stewardship Council
Stephen Brandt, Chair, Delta Independent Science Board
Honorable Jared Blumenfeld, Secretary of Environmental Protection
Honorable Wade Crowfoot, Secretary of the Natural Resources Agency
Honorable Anthony Rendon, Speaker of the Assembly
Honorable Phil Ting, Chair, Assembly Budget Committee
Honorable Toni G. Atkins, Senate President pro tempore
Honorable Nancy Skinner, Chair, Senate Budget Committee
Honorable Henry I. Stern, Chair, Senate Water & Natural Resources Committee
Honorable Eduardo Garcia, Chair, Assembly Water, Parks & Wildlife Committee
Date: December 30, 2020

To: Honorable Gavin Newsom
Governor of California
State Capitol
Sacramento, California 95814

From: Delta Independent Science Board

Subject: Independent Science and Oversight in the California Delta

Dear Governor Newsom:

More than a decade ago, the Legislature created the Delta Independent Science Board to provide “effective independent science” (italics in original bill analysis) and oversight of agency scientists working in the Sacramento-San Joaquin Delta. The Board’s creation responded to decades of so-called “combat science” between state agencies and stakeholder scientists. In the years before the Delta Reform Act passed, the Department of Water Resources had sued the State Water Resources Control Board, challenging its science in the Delta.

Since its creation, the Board has completed over 30 scientific reviews, averaging over 3,000 hours per year, with reports since 2015 accessible here. The Board provides serious report-writing scientific review. Its responsibility for independent science offers your Administration and state government the opportunity for greater scientific credibility in one of the most contentious environmental challenges our state faces.

The Delta presents California with one of its most controversial and important sustainability challenges, at the nexus of climate change, ecosystem resilience, water supply, and flooding issues. Hundreds of state, local, and federal agencies and stakeholders have responsibilities for managing this resource – and they all see the Delta’s problems differently. The State needs broadly credible science to lead policy for these difficult and changing problems, and will need this science more in the future.

Earlier this year, State agency lawyers decided that “independent” Board members were required to be employees of the State. This decision contradicts the state law that created the Board and barred its members from direct affiliation with State agencies and programs that it reviews. The Delta Reform Act expresses the Legislature’s intent that the “nationally or internationally prominent scientists” NOT be employees of the agencies whose science they review.

Scientific review that is independent of the State’s regulatory agencies remains a critical factor in your future success in the Delta. Credible science can draw acceptance of Delta policies and
minimize litigation that would instead promote combat science. Forcing the Board’s members to accept employment and oversight by agencies and managers whose science the Board reviews would destroy that independence and undermine the credibility of the science from both the Board and the agencies it reviews. Challenges to State science could be compared to the current challenges to US EPA science reviewed by industry advocates on federal science advisory boards, which goes further and puts scientific review in the hands of the regulated industries.

This year, the Delta Independent Science Board’s effort and scope have declined, from an in-depth scientific review organization to a largely volunteer group. The Delta Stewardship Council appointed Board members based on a competitive national search. Members then made a substantial professional commitment of their time, for meetings and scientific review outside meetings, with the understanding that their time would be compensated. Since the State reduced payments to a per-diem fee, member time commitments have dropped nearly 70%. You can expect to lose their expertise further and see the Board’s eventual functional dissolution.

As the New Year begins, now is the time to resolve any misunderstanding or concerns of your agency lawyers as to the independence of the Delta Independent Science Board. You may wish to resolve this issue internally, or you may seek a clarification of existing state law from the Legislature, which created the Board independent from other State agencies.

We would be pleased to collaborate with your Administration and the Legislature in resolving this issue. Thank you for taking the time to consider our concerns.

Sincerely,

Dr. Stephen Brandt, Chair, Professor, Oregon State University Brandt.disb@gmail.com
Dr. Jay R. Lund, Past Chair Distinguished Professor, UC Davis Member, US National Academy of Engineering jrlund@ucdavis.edu

cc: Susan Tatayon, Chair, Delta Stewardship Council Secretary Jared Blumenfeld, California Environmental Protection Agency Secretary Wade Crowfoot, California Natural Resources Agency E. Joaquin Esquivel, Chair, State Water Resources Control Board Karla Nemeth, Director, California Department of Water Resources Charlton H. Bonham, Director, California Department of Fish & Wildlife Honorable Toni G. Atkins, Senate President pro Tempore Honorable Anthony Rendon, Speaker of the Assembly Honorable Henry I. Stern, Chair, Senate Water & Natural Resources Committee Honorable Eduardo Garcia, Chair, Assembly Water, Parks & Wildlife Committee