

September 11, 2009

Senate President pro tem Darrell Steinberg
State Capitol, Room 205
Sacramento, CA 95814

Dear Senator Steinberg:

You asked the Delta Vision Foundation to comment on the package of bills presently before the legislature seeking to resolve decades of conflict over California's water policy and the ecosystem of the California Delta. As we write this letter, five (5) policy bills available since September 9th have been folded into a single bill (SB 722) and a bond bill has been drafted (AB 893).

The bill package represents an important move forward --- but two very serious problems remain --- (1) there is no funding for the Delta Stewardship Council which is directed to achieve the co-equal goals and implementation of the Delta Plan and (2) the ability of the council to determine ultimate consistency of state and local agency action with the Delta Plan was seriously compromised by the amendments released today!

The Foundation does not endorse or oppose legislation, a practice we followed as members of the Governor's Delta Vision Blue Ribbon Task Force. However, we have carefully reviewed each bill as available and compared it to the recommendations in the *Delta Vision Strategic Plan*. You can find all of previous our comments at <http://deltavisionfoundation.org/reports.php>.

Analysis of the package of five policy bills

The five policy bills touch all of the seven Goals of the *Delta Vision Strategic Plan*, but lacked any provision for financing, critical to Goal 7. As posted on September 9, the package represents substantial progress after many years of stalemate and reflects many recommendations from the Delta Vision Strategic Plan:

- ✓ AB 39 (Huffman) defines the Delta ecosystem to be protected
- ✓ AB 49 (Feuer/Huffman) implements the Governor's calls for a 20% water savings by the year 2020,
- ✓ SB 12 (Simitian) establishes a new Delta governance system to pursue the co-equal goals of a reliable supply of water for Californians and improvements in the Delta ecosystem.
- ✓ SB 229 (Pavley) gives the State Water Board authority to enforce long-standing state law requiring the reporting of water use by permit holders, and also requires the reporting of underground water use and
- ✓ SB 458 (Steinberg/Simitian) revises the role of the existing Delta Protection Commission to align it with the co-equal goals, and also establish the Delta Conservancy to implement important parts of the Delta ecosystem improvement.

The two integrated bills provide no financing and the effectiveness of any Delta Plan is greatly diminished:

Judged by the main objective of the Delta Vision Strategic Plan--of achieving integrated, effective action on the Delta--SB 722 and AB 893 fall far short in providing needed authority and funding to the Delta Stewardship Council.

Provisions for council determination of the consistency of state and local actions included in SB 12, section 85225.25 have been dramatically altered in the same section of SB 722. Those agencies now make their own determinations of consistency, ensuring dissipation of accountability, limited transparency and inevitable drift away from any Delta Plan.

The proposed bond bill, AB 893, anticipates spending several billions of dollars in activities related to the Delta, but includes only one reference to consistency with the Delta Plan, and that in allocations to the Delta Conservancy.

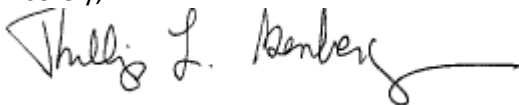
The absence of any funds for the Delta Stewardship Council or for implementation of the Delta Plan is a major mistake. Although some of the funds to be transferred from the California Bay Delta Authority/CALFED might be used for the Council, they are not adequate to complete a planning process, let alone fund Delta Plan implementation. Previous legislation included some provisions addressing funding (e.g., Preprint SB 2, sections 85400 through 85407). Those provisions should be reinserted into the legislation, and earlier comments for improvement made by the Delta Vision Foundation considered.

An effective Delta Stewardship Council must have ability to make consistency decisions and secure, adequate funding. Without financing for the Delta Plan and secure funding for the Council you cannot guarantee achievement of the co-equal goals. Without council ability to decide when state and local actions are consistent with the Delta Plan, you cannot even guarantee attention is paid to the co-equal goals. Instead SB 722 and AB 893 guarantee the same old interest groups battles shift back to the Legislature and the multiple government agencies currently involved in the water/Delta puzzle --- everyone is involved, but no one is in charge or accountable. We conclude that SB 272 and AB 893 would repeat the failed experience with the California Bay Delta Authority.

The *Delta Vision Strategic Plan* goals are linked for a reason: only the development of a Delta Plan to achieve the co-equal goals, and the authority and responsibility the Council to see that it is done offer a real break with decades of deadlock.

I am sorry that we cannot report that your bill package is in substantial agreement with the major goals and recommendations of Delta Vision.

Sincerely,

A handwritten signature in black ink that reads "Phil Isenberg". The signature is written in a cursive style with a long horizontal flourish at the end.

Phil Isenberg