



October 23, 2009

Helen Thomson, Chair
Sacramento Area Council of Governments

Dear Helen:

Thank you for the opportunity to appear before the SACOG board earlier this month to provide an update on the comprehensive water discussions in the Legislature and to hear the concerns expressed by our local and regional government representatives.

I want to follow up on that meeting and provide you with a summary and response to each of the key issues raised by SACOG, and the changes to the water package I have secured in response to my locals' concerns.

As the comprehensive water package has developed in the Legislature, the Sacramento-San Joaquin Delta counties, my local governments in the greater Sacramento region (i.e. SACOG, Regional San District, SMUD, Placer County) have expressed concerns about various parts of the package and asked for a series of changes or improvements to the package for our region. Those changes were as follows:

1. Increased local funding for economic revitalization of Delta counties, levee repairs and improvements, and ecosystem restorations to help recreational and fishing uses.
2. Legally binding assurances that Delta counties will be compensated for any lost property tax revenues due to actions in the Delta such as the construction of a new water conveyance facility (something not guaranteed under current law).
3. Legally binding assurances that costs to upgrade regional sanitation facilities triggered by CEQA mitigation requirements for any new conveyance will be borne by those proposing those changes, and not by Sacramento region ratepayers.
4. Strong local and regional representation on existing and new governance entities created in the water package.
5. Protection of local government authorities over appropriate land use development in the Delta region.

6. With respect to any new water conservation requirements such as the Governor's "20% water conservation by 2020" target, a formal recognition in the legislation that inland water agencies like Sacramento and Placer differ in their water use and conservation from larger coastal regions, such as Los Angeles and San Francisco, and more flexible rules for water conservation for these inland areas.

7. Legally binding assurances that nothing in the new Delta water legislation affects in any manner whatsoever existing water rights, area of origin rights, and water entitlements for the Delta and greater Sacramento region.

As you know, I've worked hard to protect the region's interests, despite challenges with others in our state delegation. I want to assure you that I will continue to do my best to ensure our region is fully protected in any final water package.

1) *Increased Local Funding for Sacramento/Delta Region:*

As proposed by the Governor, and supported by the legislative leadership other than me, the comprehensive water package contained no direct funding to help Delta counties address water, flood protection, wastewater, economic development or other concerns.

I have successfully advocated for the following changes to the package to increase local funding:

a. *New funding for wastewater treatment part I:*

Sacramento County asked for a new and explicit requirement in law that any party proposing to build through-Delta conveyance fully mitigate the effects of that conveyance, including any mitigation and costs associated with upgrading the Sacramento Regional Sanitation Agency waste water treatment plant. I secured this language in the bill. (Requested by Sacramento Supervisor Susan Peters, SACOG, and the Sacramento Regional Sanitation Agency)

b. *New funding for wastewater treatment part II:*

Delta Counties also asked for additional funding to upgrade sewage treatment plants to reduce or clean up discharges in the Delta. I have secured at least \$200 million in additional funding for wastewater treatment upgrades in any water financing package (e.g. water bond). These funds could be used by all of the Delta counties to upgrade existing sewage and wastewater treatment facilities to help reduce any harmful pollution discharges into the Delta. (ibid.)

c. *New legally binding assurances for full compensation for lost property tax revenue due to ecosystem restoration:*

Delta counties requested new provisions in law to guarantee that any local property taxes that are lost due to conversion of farmland into ecosystem restoration land, in order to reduce litigation over endangered species in the Delta, be fully compensated. I have ensured this provision was in the policy bill. (Requested by the five Delta counties).

d. *New legally binding assurances in law for compensation for full mitigation of any adverse effects associated with construction or operation of any through-Delta conveyance:*

Delta counties expressed concerns that new decisions in the Delta made to provide water supply reliability and ecosystem restoration should be undertaken only if Delta counties are provided full mitigation of any adverse effects from those decisions.

I successfully pushed for language in the bill that expressly prohibits the construction or operation of any new canal or conveyance facility unless the parties receiving that water have a legally binding agreement to pay for the costs of the environmental review, planning, design, construction, mitigation, and operation and maintenance of any new facilities.

e. *New funding for Delta county economic development, water supply, and infrastructure investment:*

Delta counties also requested billions of dollars in new funds for economic investments and new infrastructure within the Delta region. I secured \$1 billion for these purposes in the financing package. (NOTE: these dollars are in jeopardy due to opposition from the Administration based on continued opposition from Delta counties, despite this appropriation).

f. *New funding for Delta levee repairs and upgrades:*

Delta counties requested new funding to help repair or replace aging Delta levees such as those around Jones Tract that are in serious danger of collapse. I secured at least \$200 million in new funding from Proposition 1-E to help Delta counties repair and replace levees in the Delta.

g. *New funding for water conservation, water efficiency, clean drinking water:*

Delta and Sacramento region local governments have complained about new requirements in the package to promote clean drinking water, greater water efficiency, and water conservation. They have expressed the concern that these new requirements may lead to rate increases. I secured new funding in the financing package to provide direct grants and low or zero interest loans to local governments to help defray any new costs associated with water conservation, water efficiency, or clean water requirements.

2. *Increased Sacramento/Delta Regional Representation on New Governance Boards*

Delta and Sacramento regional governments have asked that they be provided with strong representation, both in membership and in formal input mechanisms, on any new Delta governance structures created by the comprehensive water package.

In response to these concerns, I have successfully pushed for the following changes to the legislative package to ensure robust representation for the Delta and Sacramento region:

a. *Increased Representation on Delta Protection Commission:* The revisions to the DPC increase local representation and eliminate state agencies and others currently members of the commission. At the same time, and in response to West Sacramento Mayor Cabaldon's concern, we have amended the legislation to ensure the city continues to have representation on the commission.

b. *Strong local and regional representation on new Delta Conservancy:* The legislation creating the new Delta Conservancy ensures that no fewer than 5 of the 11 members of the new Delta Conservancy will be local government representatives from Delta counties to ensure the Delta's voice in land acquisition or ecosystem restoration is strong.

c. *Permanent seat for Delta Protection Commission Chair on Delta Stewardship Council and potential for additional Delta representation:* The new Delta Stewardship Council will, by law, ensure that the Chair of the DPC (a Delta county supervisor) will be a permanent member of the Council. In addition, since the Senate, Assembly, and Governor all have additional appointments to the seven member board, there are clear opportunities for additional Delta members to be appointed.

d. *Explicit requirement that Delta Stewardship Council consider local and regional input and incorporate into Delta plan:* I pushed for language in the legislation that requires the new DSC to take under consideration any comments from the DPC and to accept them if they are consistent with the Delta plan.

3. *Other adjustments and accommodations made for Sacramento and Delta regional agencies to provide greater flexibility for locals*

a. *New "path 4" for our region's water agencies and greater flexibility in meeting Governor's "20% by 2020" water conservation targets:* Several of our regional water agencies (i.e. Placer County, Citrus Heights, Sacramento) have expressed strong concerns that the new "20% by 2020" water conservation targets contained in the comprehensive water package are too stringent for their agencies to meet.

I have reviewed their concerns with the authors and sponsors of those bills, and pushed for changes that provide the following new flexibility for our agencies: the bills now provide a new "path 4" for water conservation compliance to be developed by the Department of Water Resources in recognition of the fact that inland suburban water agencies have different water use profiles than coastal urban areas. The new path will take into account factors such as climate, parcel size, and other considerations requested by our agencies.

Moreover, the legislation now states that if a local or regional agency merely has adopted, and is implementing and financing, a water conservation plan in furtherance of "20% by 2020" target it is deemed to be in compliance with the law

Finally, it should be noted that the only sanction for failure to comply with the new requirements is loss of eligibility for any state water management grants or loans. There are no civil or criminal penalties for failure to comply.

b. *Greater local control over land use determinations in Delta secondary zone:* SACOG and others have expressed concern over the Delta Vision recommendation that actions taken by local governments within the secondary zone of the Delta be subject to review and consistency determination by the new Delta Stewardship Council.

With the help of Mike McKeever, SACOG's Executive Director, and Kirk Trost, the Council's outstanding outside counsel, I'm pleased to report that we have negotiated language that SACOG assures us preserves the appropriate local control over land use decisions in the Delta secondary zone.

c. *Statutory assurances that regional water rights and entitlements will be protected:*

Our local and regional water agencies have expressed strong concern that their existing and legally enforceable water rights, area of origin, and county of origin protections be unaffected in any manner by the new Delta legislation.

I have ensured that the legislation will contain a sweeping “savings clause” that states the following:

“This division does not diminish, impair, or otherwise affect in any manner whatsoever any area of origin, watershed of origin, county of origin, or any other water rights protections, including, but not limited to, any pre-1914 water rights, provided under the law.”

To be sure, no legislation is perfect [except SB 375, of course]. However, taken together, the comprehensive water package itself, along with this list of key concessions and changes to address our region’s concerns, represents a significant advance in water policy for the state and for our constituents.

I hope this letter responds to the concerns raised by SACOG and others and look forward to working with you on this important issue.

Sincerely,

A handwritten signature in black ink that reads "Darrell Steinberg". The signature is written in a cursive, flowing style with a prominent loop at the end.

DARRELL STEINBERG

Cc: SACOG Board Members
Mike McKeever, Executive Director