



Delta Stewardship Council

A CALIFORNIA STATE AGENCY

April 15, 2021

Dear Delta Independent Science Board Member,

I am writing to provide information regarding the recent reclassification of Delta Independent Science Board (Delta ISB) members to being employees of the State of California compensated at \$100 per diem, rather than independent contractors as had been the method of compensation prior to 2020. This administrative change is not a change to the independent role of the Delta ISB. This change was initiated in 2020, when a routine review of Council contracts and further analysis identified that pursuant to California law, members of a state board should be classified as state employees, as described in more detail below.

As you know, the Delta ISB was created by the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The Delta Reform Act created the Delta ISB as a board “in state government,” as a replacement for the CALFED Independent Science Board (Cal. Water Code section 85280, subsections (a) and (d)). The California Constitution exempts board members from civil service (Article VII, Section 4). The California Department of Human Resources (CalHR) classifies per diem board members as exempt “statutory officers” who are employees of the state. More information on classification of exempt employees (including statutory officers) can be found on the CalHR website at <https://www.calhr.ca.gov/state-hr-professionals/Pages/exempt-employee-salaries.aspx> as well as CalHR publications such as the July 2019 CalHR Exempt Employee Salary Schedule found at <https://www.calhr.ca.gov/Documents/exempt-salary-schedule.pdf>. Government Code section 11564.5 states that the rate for board members “shall be established at one hundred dollars (\$100) per day unless a higher rate is provided by statute....” Because the Delta Reform Act does not provide a specific compensation amount for the Delta ISB, the Delta ISB is compensated at \$100 per diem.

I want to assure you that the Delta Reform Act’s mandate of Delta ISB independence will not be affected by this change in employment status. The Delta ISB will continue to function as it has, except that instead of managing Delta ISB contracts, the Council will administer Delta ISB employment benefits and pay. Although the Delta ISB members are now administratively classified as employees, they continue to function independently in the discharge of their duties under the Delta Reform Act.

The relationship between the Council and Delta ISB is governed by the Delta Reform Act; whether this relationship is administered pursuant to contract or employment does not affect the requirements of the Delta Reform Act. The Delta ISB will continue to “provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Delta through periodic reviews of each of those programs” and submit a report to the Council “on the results of each review, including recommendations for any changes in the

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programs reviewed by the board.” (Cal. Wat. Code section 85280(a)(3).)

The Council will continue to appoint a lead scientist for the Delta Science Program after consultation with the Delta ISB. (Cal. Wat. Code 85280(b).)

The Delta Plan will continue to be “based on the best available scientific information and the **independent science advice** provided by the Delta Independent Science Board.” (Cal. Wat. Code section 85308(a) (emphasis added).) The Council will continue to seek and rely on the Delta ISB’s independent science advice for the development of the Delta Plan and related matters in the same manner as it has to date without directing the Delta ISB substantively.

I understand this change in employment and the compensation structure has raised questions and caused some frustration, particularly for recently recruited members who were appointed amid this transition. Please know that the Council is committed to making this transition as smooth as possible and to providing additional support to the Delta ISB where possible in a way that would maintain the independence of the Delta ISB and at the same time continue to support independent Delta science.

It bears repeating that this change does not affect the independent nature of the Delta ISB and that an administrative change in status and the compensation mechanism is not a change to the independent role of the Delta ISB.

Thank you for your patience and your service, and for the invaluable contributions of the Delta ISB. The Council and the State of California benefit greatly from the immense value brought by your work.

Sincerely,

Susan Tatayon

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