

Delta Levee Investment Strategy Update

Summary: This is a progress report on the Delta Stewardship Council's (Council) activities to update the Delta Plan's priorities for State investment in Delta levees. This update focuses on the process for receiving Council direction regarding goals and objectives for State investments in Delta levee and for identifying the State interests these investments should further, including the priority that should be placed on minimizing State liability for levee failures. The memo includes pertinent background information and a description of anticipated Council activities and actions on the Delta levee investment strategy between January and March.

Staff will also report on overall project progress in public outreach and communication, methodology development, and the independent peer review.

Background

The Delta Reform Act states "The Delta Plan shall attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments" (Water Code Section 85305(a)). In addition, "The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for State investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and non-project levees" (Water Code Section 85306).

The Delta Plan established interim priorities for State investment in Delta levees (RR P1 and 23 CCR Section 5012). The Council is now engaged in updating the Delta Plan's priorities for these Delta levee investments. In December, the Council accepted a staff issue paper, *State Investments in Delta Levees: Key Issues for Updating Priorities*, that provided background information on key questions to be addressed as the Council considers updating the Delta Plan's levee investment priorities. A next step in this update is considering what state interests these investments should further and how to integrate consideration of those State interests with reductions in risks to people and property.

Problem Statement

The Delta Plan also recommended that the Council, in consultation with the Department of Water Resources (DWR), the Central Valley Flood Protection Board (CVFPB), the Delta Protection Commission (DPC), local agencies, and the California Water Commission, promptly update these interim priorities on levee investment (Delta Plan recommendation RR R4 *Actions for the Prioritization of State Investments in Delta Levees*).

Some stakeholders commenting on *State Investments in Delta Levees*, such as Local Agencies of the North Delta, recommended the Council clarify why updating the priorities, rather than continuing current levee investment practices, is essential now. Confirming the rationale for updating the priorities can help frame the Council's discussions and has been fundamental to the structure of the Delta Plan, which provides problem statements and rationales as introductions to each set of its regulatory policies and recommendations.

The problem with current levee investment practices, the Delta Plan says, is that "currently no comprehensive method exists to prioritize State investments in Delta levee operations, maintenance, and improvement projects. Without a prioritization methodology, the apportionment of public resources into levees may not occur in a manner that reflects a broader, long term approach". An indication of the importance of providing priorities more useful in guiding long term apportionment of State funding for Delta levees is the current regulatory policy's conclusion that the policy's nine goals for State levee investment "are all important and over time it is expected that the California Department of Water Resources must balance achievement of these goals."

A challenge in applying this guidance to the apportionment of State levee investment funds is that we now better understand how much estimates of desired Delta levee improvements, which total \$1.3 billion to nearly \$3 billion adjusted for inflation, exceed the funds available. An estimated \$700 million of State funds has been committed to Delta levee maintenance and improvement since 1973. This includes \$274 million of bond funds that are encumbered for future Delta levee projects. That funding has helped to improve Delta levee maintenance and strengthened levees protecting key areas. Levee failures in the Delta are now less frequent than they were in the 1970s and 1980s. The levees protecting urban areas, the western Delta islands that are so important to maintaining water quality, and corridors that convey water for export are stronger and more resilient.

Yet, partly because we know much more about the Delta levee system and the forces threatening it, estimates of the miles of Delta levees that need improvement are undiminished. Despite the many millions of State investment, testimony given to the Council by DWR staff in January 2012 indicates that only 25 Delta reclamation districts, protecting about 31 percent of the legal Delta's land, are at or above the standard that State plans have sought. Changes in Federal disaster recovery policy call into question the value of pursuing those levels, which were derived from standards required to receive post-disaster levee reconstruction funds from the Federal Emergency Management Agency (the Hazard Mitigation Plan or HMP standard) and the Army Corps of Engineers PL 84-99 program. Furthermore, the funds needed to raise all the Delta levees to the levels desired are not available. One reason for this is that the Army Corps of Engineers, which had been expected to provide up to \$500 million to upgrade Delta levees, recently concluded that there is no federal interest in improving the Delta's non-project levees.

Identifying Goals and Objectives of State Delta Levee Investments and the State Interests those Investments Should Further

The issue paper accepted by the Council at its December 2014 meeting posed 15 questions to be addressed in updating the Delta Plan's levee investment priorities. Three of those questions are especially relevant now, because Council direction regarding them will shape the methodology being developed to assess alternative investment priorities over the coming months:

1. What goals and objectives should State investments in Delta levees further?
2. What are the State's interests in the Delta's levees?
3. How should the levee priorities address the risk of State liability for levee failures?

Starting at the Council's January meeting and going through its March meeting, staff suggests a phased discussion, deliberation and decision-making approach to address these questions.

Addressing these three questions now is necessary first because the answers can provide key State objectives for the Delta levee investment strategy and shape the ultimate outcome of this project. Information and guidance related to these questions can be found in many provisions of State law and within the plans, reports and grant guidelines of the State agencies interested in the Delta's levees.

To assist the Council in addressing these three questions, staff has compiled a comprehensive list of potential goals and objectives, State interests and other criteria related to Delta flood risk management (Attachment 1). This list is derived from key legislation, and implementing agency programs, plans, reports, and grant guidelines.

The lists are organized by issue paper question. Excerpts from the Public Resources and the Water Code have been gathered to provide guidance in answering Question 1, which deals with the goals and objectives of State investments in Delta levees. For Question 2 about State interests in the Delta levee system, examples of values, assets, and other considerations affected by the Delta levee system have been drawn from multiple agency plans and reports. For Question 3, three considerations are provided to address the risk of State liability for levee failures, including a recommendation from the Delta Plan.

Next Steps

As mentioned above, identifying goals and objectives for Delta levee investments and potential State interests to be furthered by levee investments will be a focus of the Council over the next three months and will include the following steps:

- January. Staff will tee-up discussion of the three questions above and provide background information that describes the broad array of goals, objectives, interests,

and other factors for the Council's consideration. The Council may receive public testimony related to the three questions. This will be an information item on the agenda.

- February. Staff will present the Council with draft recommendations for each of the three issue paper questions based on the January discussion, consultation with other agencies, and public comments. Staff will solicit additional input from the Council at its February meeting to further refine staff recommendations which will be brought back for the March Council meeting. This will be an information item on the February agenda.
- March. Two key events are scheduled. First, in mid-March, a half-day workshop with flood and risk management experts will be held to provide an opportunity for the Council to obtain the best possible technical advice on factors to consider in identifying goals and objectives for State levee investments, State interests through levee investments, and minimizing State liabilities. This discussion will assist the Council as it undertakes its decision-making process related to the Delta levee investment strategy. The workshop will be structured as a conversation between Council members and the invited experts, with opportunities for the Council and panelists to receive public comment at scheduled times.

Second, at the regularly scheduled March meeting, staff will present the Council with its final draft recommendations related to the three questions above. Staff will request that the Council provide guidance to help finalize those recommendations. That guidance will then be incorporated into the Delta levee investment prioritization methodology and guide the next phases of the project. This will be an action item on the Council's March agenda.

Other Activities

In addition to preparing for the activities above, staff has also been working on other tasks related to the Delta levee investment strategy. These activities include:

Communication Strategy and Outreach Efforts. Staff continues to meet with key stakeholders to provide an overview of the project and to solicit input on the information being assembled. Specifically:

- On January 6, Council staff held a public meeting in Brentwood. Though attendance was lower (12 attendees) than the public meeting in Clarksburg in December, many good questions were asked and information exchanged. Specific questions from the audience included; (1) those related to the data and its availability for review; (2) how the "tiered" ranking approach would work; (3) what the Council's process will be for working with the implementing agencies; and (4) how we were considering cost share for individual projects and how that might fit into the prioritization scheme. As part of the meeting agenda, three

breakout sessions were conducted and focused on: (1) project data; (2) the planning tool; and, (3) overall process. These sessions allowed attendees to engage in detailed discussion with project team members on these topic areas.

- Council staff met with staff from DWR's Flood Operations Branch and local emergency managers in mid-January, and will meet with staff from the San Joaquin Area Flood Control Agency, West Sacramento Area Flood Control Agency, and Sacramento Area Flood Control Agency later in the month.
- Staff spoke with representatives of Contra Costa Water District regarding its interests in levee improvement.
- On January 28 staff will make a presentation to the Delta Conservancy's Board.

Data Compilation and Review. Our consultants continue to compile existing data and information, review and quality check this information, and solicit input from technical experts on the data. Specifically, ARCADIS has prepared two draft technical memoranda. These memoranda are currently undergoing internal review and staff anticipates posting these documents on the Council's website at the end of February. The memoranda contain:

- Information on islands and tracts, assets, exposure, beneficiaries, available data, uncertainty in the data, and data gaps.
- A description of the hazards, risks and consequences of levee failure including the availability of this data, uncertainty in this data, and data gaps.

This baseline information will carry into subsequent project work.

Independent Scientific Review Panel (May-June 2015). Staff continues to prepare for the peer review of the project methodology in spring 2015.

List of Attachments

Attachment 1: Compilation of Information related to State Interests, Goals and Objectives and Liability related to Delta Levees and Flood Management

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