

DRAFT 4/30/15 - SUBJECT TO CHANGE
For Review and Adoption by the DSC at the May 28, 2015 Meeting

Thursday, April 23, 2015
DELTA STEWARDSHIP COUNCIL
Park Tower Plaza
980 9th Street, Second Floor Conference Room
Sacramento, CA 95814

MEETING SUMMARY

1. Welcome and Introductions

The meeting was called to order at 9:02 a.m., April 23, 2015, by Chair Randy Fiorini.

2. Roll Call – Establish a Quorum (Water Code §85210.5)

Roll call was taken and a quorum established at 9:03 a.m. The following members were present: Patrick Johnston, Randy Fiorini, Phil Isenberg, Mary Piepho, Frank Damrell, and Aja Brown. The following member was absent: Susan Tatayon. After roll call the Council recessed at 9:05 a.m. for the Closed Executive Session.

3. Closed Executive Session – (Not open to the public.) (Action Item): Personnel Matter: Lead Scientist Vacancy (Government Code §11126 (a)(1))

The Closed Session convened at 9:07 p.m. and adjourned at 9:35 a.m., with Chair Randy Fiorini presiding.

4. Reconvene Open Session

Upon adjournment of the Closed Session, the Delta Stewardship Council reconvened in Open Session at 9:40 a.m. Chair Fiorini stated that no action had been taken.

5. Adoption of the March 11, 2015 Workshop Summary and March 26, 2015 Meeting Summary

Chair Fiorini asked if there were any questions, suggestions or comments from the Council or public regarding the March 11, 2015 Workshop Summary and the March 26, 2015 Meeting Summary. There were none.

Motion: (Offered by Piepho, seconded by Brown) to approve the March 11, 2015 workshop summary and the March 26, 2015 meeting summary.

Vote: (6/0: Johnston, Isenberg, Fiorini, Piepho, Damrell, Brown) and the motion was adopted.

The video showing this vote can be found on the linked agenda at <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2015-04-23&player=silverlight> at 03:08.

6. Chair's Report

Chair Fiorini briefly mentioned the many meetings that have taken place in the past month in preparation for the upcoming Delta Plan Interagency Implementation Committee (DPIIC) meeting scheduled on May 11 and commended Taryn Ravazzini, DPIIC Coordinator, for her efforts. Chair Fiorini called upon Ms. Ravazzini to provide a brief summary of the tentative agenda.

Next, Chair Fiorini brought the Council members' attention to the following four letters that were provided as handouts:

- Letter to the Council from the Delta ISB, dated April 22, 2015, regarding Drought and Opportunity. The letter is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-10-attachment-1-delta-independent>
 - Letter to Tanis Toland, U.S. Army Corps of Engineers, Sacramento District, from Cindy Messer, Deputy Executive Officer, dated April 13, 2015, regarding Draft Lower San Joaquin River Project Integrated Interim Feasibility Report/Environmental Impact Statement/Environmental Impact Report. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/2015/04/15-0413_DSC_Comment_ltr_USACE.pdf
 - Letter to Juan Neira, San Joaquin Area Flood Control Agency, from Cindy Messer, Deputy Executive Officer, dated April 13, 2015, regarding Draft Lower San Joaquin River Project Integrated Interim Feasibility Report/Environmental Impact Statement/Environmental Impact Report. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/2015/04/15-0413_DSC_Comment_Ltr_SJ%20Area%20Flood%20Control%20Agency.pdf
- Letter to California Department of Fish and Wildlife, from Cindy Messer, Deputy Executive Officer dated April 9, 2015. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/2015/04/15-0409_CDFW_Prop1_GrantGuidelines_DSCcomments.pdf

Lastly, Chair Fiorini said that three posters from the Science Conference were displayed outside the meeting room and encouraged everyone to take a moment to look at them.

7. Executive Officer's Report

Executive Officer Jessica Pearson gave a brief overview of the day. She said the meeting would focus on the State's record drought and what it meant for the Delta and coequal goals. The Council would hear from a panel that would provide an overview of current water supply conditions and operations, the current health of the Delta ecosystem and fisheries as well as how the State is responding to impacts from the drought. Ms. Pearson stated that later in the year, the Council will hear from a panel on the water year in review. Next, Ms. Pearson briefed the Council in more detail on the letters that Chair Fiorini noted

in his report. Ms. Pearson announced the two Delta Levee Investment Strategy (DLIS) public meetings that were scheduled on April 27 and April 29 to update the community on the project. The meeting notice for the two meetings is posted on the Council website at <http://deltacouncil.ca.gov/docs/delta-levee-investment-strategy-levee-levees/delta-levees-investment-strategy-public-meetings>. Next, Ms. Pearson announced a Peer Review Panel on prioritization and methodology for the DLIS was scheduled for mid-May. Information and meeting notice for the panel is posted on the Council website at <http://www.deltacouncil.ca.gov/event-detail/11868>.

Ms. Pearson announced the passing of Council employee, Barb Tourdot. Ms. Tourdot fought a brave battle against cancer and was an inspiration to others in demonstrating her strength of character during her courageous battle. Ms. Pearson and Chair Fiorini offered brief words about Ms. Tourdot and Chair Fiorini stated the Council would adjourn the day's meeting in Ms. Tourdot's memory.

7b. Legal Update

Chief Counsel Chris Stevens introduced Legal Intern Cody Phillips to give the legal update. Last month, Mr. Phillips reported on a case he was following, the Capistrano Taxpayers Association vs. the City of San Juan Capistrano, regarding the constitutionality of tiered pricing for water in California. Mr. Phillips reported the Fourth District Court of Appeals issued its decision on Monday, April 20. Mr. Phillips stated Judge Bedsworth's opinion was concurred in by Judge Moore and Judge Thompson in a unanimous victory for the plaintiff, the San Juan Capistrano Taxpayers Assn. Mr. Phillips explained the history of the case and explained although the tiering of water rates was not uncommon, the court stated it must be based on actual usage not utility budgets. Mr. Phillips stated because of the decision, water agencies may have to consider other conservation mechanisms in order to comply with Proposition 218. Mr. Phillips said at this point the city may file an appeal with the California Supreme Court and he will continue to monitor the case.

7c. Legislative Update

The Legislative Update was presented by Executive Fellow Gavin Landgraf. First, Mr. Landgraf began with the legislative calendar. The deadline for fiscal bills to be reported out of policy committees to fiscal committees is May 1 and the deadline for non-fiscal bills to be reported to the floor of the house of origin is May 15. Mr. Landgraf announced that the Assembly Budget Subcommittee met on April 15, and the Council's budget was presented by Council member Johnston and unanimously approved. The Assembly Committee on Parks and Wildlife met on April 14 and heard all of the Assembly groundwater bills. Mr. Landgraf briefed the Council on the groundwater bills, providing a narrative summary of important features of them and letting the Council know which ones passed out of Committee and which one did not. Councilmember Isenberg asked whether AB 647, by expanding the definition of beneficial use, could impact the Delta by allowing upstream water rights holders to divert more surface water under their existing water rights. Particularly, Councilmember Isenberg was interested in whether water rights holders would be able to start diverting water under previously unused rights, which are sometimes referred to as "paper water." Staff committed to following up with more information on the effects of AB 647.

Mr. Landgraf reported on the Committee that met on aquatic weeds and the activities taking place on this issue. Finally, he highlighted bills of interest to the Council (AB 501; AB 747; AB 1201) and provided an updated Bill Tracking Report that is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-7c-legislative-update>.

7d. Quarterly Contract Update

Ms. Pearson noted the inclusion of the Quarterly Contract Update. The Quarterly Contract Update is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-7d-quarterly-contract-update>.

8. Lead Scientist's Report

Dr. Peter Goodwin presented the Lead Scientist's Report. Before briefing the Council on the activities of the Delta Science Program, he announced that on April 20 USGS hydrologist Michelle Sneed gave a Brown Bag on groundwater subsidence in the Central Valley. She provided an overview of the processes, measurements, analyses and consequences using case studies from the San Joaquin Valley, the Coachella Valley and the Mojave Desert. The interesting take home point, Dr. Goodwin said, was that the subsidence is not going to be reversible. For more information, the flyer and information is posted on the Council website at <http://deltacouncil.ca.gov/events/land-subsidence-lowdown-drawdown>.

Dr. Goodwin announced Chris Austin (Maven's Notebook) was honored by the American Fisheries Society and had attended the California/Nevada Chapter meeting the week prior, where she received a Scientific Journalism Award. Dr. Goodwin noted the service Ms. Austin provides is extremely valuable because of her ability to report on the facts without comment. Council member Piepho requested the Chair send a letter congratulating Ms. Austin for her recognition and Chair Fiorini agreed.

Dr. Goodwin briefly described an effort including four of the former lead scientists who are working on a summary of why the Bay-Delta is a complex system. The purpose is to create a simple easy to read document that would be a pull together the more substantial documents and put in one place a 15-20 page summary of Delta and California water issues. The summary is being produced partially from a request from Secretary Laird and the Department of The Interior and expected to be completed in May.

Dr. Goodwin's report covered collaborative science activities and science communications. The staff report for Agenda Item 8 is posted on the Council's website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-8-lead-scientists-report>. Dr. Goodwin invited Environmental Scientist Yumiko Henneberry to discuss the *By the Numbers* report. *By the Numbers* is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-8-attachment-1-numbers>.

Throughout the discussion of the Lead Scientist's Report, Dr. Goodwin heard Council members' comments, answered questions and provided clarification. Chair Fiorini asked if

there were any members of the public who wished to comment on the item. There were none.

9. Communicating the Council's 2015 Priorities

Keith Coolidge, Executive Manager for External Affairs, presented Agenda Item 9. Mr. Coolidge stated at the Council's March meeting they discussed 2015 priorities, including communications actions as a core function of the Council and the report given today was to add more detail about support of priority actions and to provide background on the Council's overall communications program. Mr. Coolidge explained that because California was vast and diverse, it was difficult and expensive to gain the attention of the general public for a prolonged period, therefore the Council's communications were aimed at smaller subsets of engaged stakeholders. Mr. Coolidge elaborated on the stakeholder groups as well as the communication tools used to reach them.

The staff report for this item is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-9-communicating-councils-2015>. Throughout the discussions of communicating the Council's 2015 priorities, Mr. Coolidge heard Council members' comments, answered questions and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item. There were none.

10. 2015 Water Year – Current Drought Conditions and Where We Go from Here

Cindy Messer and Anthony Navasero presented Agenda Item 10. Ms. Messer gave a brief overview of the item, stating its purpose was to inform the Council about the status of the current and forecasted water supply conditions, how the drought affects the Delta ecosystem, and highlighted some of the drastic actions being taken by the State and local water suppliers to extend limited supplies to make water available where is most needed. Mr. Navasero introduced the first panel, Karla Nemeth, deputy secretary for water policy at the California Natural Resources Agency and Ellen Hanak, a senior fellow with the Public Policy Institute of California.

Ms. Nemeth discussed available options to address future conditions should the drought persist. She described the Drought Task Force and its key focus on funding as well as assisting with water management; working with the State Water Resources Control Board (SWRCB) and DWR to improve the database on water use and management; streamlining government response in terms of how the Delta system is managed; permitting; shifting from voluntary water conservation to mandatory reductions, etc.

Following Ms. Nemeth's briefing, Ms. Hanak provided a briefing on future options to manage drought conditions. Her PowerPoint presentation is posted on the Council's website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-10-powerpoint-presentation-policy>. Ms. Hanak began with discussing the policy priorities for management of the drought and concluded with polling data.

Throughout the panel discussion, Ms. Nemeth and Ms. Hanak heard Council members' comments, answered questions and provided clarification. At the conclusion of the first panel, the Council recessed for lunch at 12:20 p.m. and reconvened at 1:14 p.m.

Following a lunch break, Mr. Navasero introduced the second panel, Jeanine Jones, DWR's interstate resources manager; Ted Sommer, lead scientist with DWR; and Michael George, the Delta Watermaster.

Ms. Jones' presentation provided an overview of the State's water supply heading into summer. She highlighted new activities including DWR installing a temporary barrier in the Delta to help control salinity, as well as coordinating projects with other governmental agencies. Ms. Jones' PowerPoint is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-10-powerpoint-presentation-drough-0>.

Dr. Sommer spoke on the fisheries and how to protect them during times of drought. Mr. Sommer also discussed aquatic vegetation control in the Delta and turbidity data and the need for turbidity for the Delta smelt. Dr. Sommer's PowerPoint is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-10-powerpoint-presentation-delta>.

Delta Watermaster Michael George briefed the Council on the SWRCB's responsibilities in drought response and drought management. Mr. George stated the SWRCB has five major areas of response to the drought: data collection and refinement; outreach and communication; conservation incentives; water rights administration; and energy regulatory response. Mr. George gave examples of activities for each of these areas.

Throughout the panel discussions, Ms. Jones, Mr. Sommer, and Mr. George heard Council members' comments, answered questions and provided clarification.

The final panel included Leah Orloff, water resources manager with the Contra Costa Water District (CCWD), and Steve Mello, president of RD 563, chairman of the North Delta Water Agency, board member of the board of Directors for the Central Valley Flood Control Association, and a Delta farmer from Tyler Island.

Ms. Orloff provided an overview on how the water district addresses the impacts from the drought on its operations and ratepayers. First, Ms. Orloff described the service area she represented and briefed the Council on its drought program and the results achieved from regional efforts on the Los Vaqueros expansion. She said the drought program included conservation services, public outreach and communication, conservation pricing adjustment, water use prohibitions, and fines and penalties. Ms. Orloff stated CCWD has been successful in working with sister agencies on regional efforts including securing funding for cost effective water recycling projects, desalination, and direct potable reuse of wastewater. Ms. Orloff's PowerPoint is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-10-powerpoint-presentation-drought>.

Mr. Mello's comments were as a farmer not the positions he currently holds. Mr. Mello stated the drought has had many impacts on farming in the Delta as well as impacts to the environment and wildlife due to the changes in farming activities. Mr. Mello said that, in response to the drought, Mello Farms has changed its farm operations in order to reduce water diversions. Mr. Mello gave examples of what he has planted in the past and what he currently planted and would have planted if it were not for the uncertainty of the drought. Other changes included not flooding the fields in November, December and January. This has occurred on the farm since 1955 and he suspects even before. Mr. Mello explained the benefits and gave examples of these benefits of flooding for habitat and the environment as well as societal and economic benefits. Mr. Mello stated the changes made in Mello Farms' farming practices will reduce the amount of water diverted from the Delta by 50 percent. Mr. Mello noted most reclamation districts are not water supply districts. The water supplies are owned by owners and the districts administer the contracts. Mr. Mello stated he hoped to set an example for other farmers.

Throughout the panel discussions, Ms. Orloff and Mr. Mello heard Council members' comments, answered questions and provided clarification. Mr. Navassero offered concluding remarks for this agenda item. Before public comment was heard, the Council recessed at 3:18 p.m. for 10 minutes. After returning from break, Chair Fiorini asked if there were any members of the public who wished to comment.

Public Comment – Agenda Item 10

Melinda Terry, North Delta Water Agency, spoke on additional drought actions included in Governor Brown's Executive Order and gave examples of some of the more drastic tools such as installation of the barrier, seeking access warrants if the landowners are not cooperative, investigation and enforcement of illegal water use and diversion and again, seeking warrants for landowners who won't allow access for the investigations, etc.

11. Delta Levee Investment Strategy: Cost Allocation Methodology and General Updates

Deputy Executive Officer Cindy Messer and Dustin Jones presented Agenda Item 11. Ms. Messer offered opening remarks and background information on the Delta Levee Investment Strategy. The staff report for this item is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-11-delta-levee-investment-strategy>.

Ms. Messer stated that at the March meeting, an update to four alternative approaches to address the goals and objectives for State investments in Delta levees was provided and several of the Council members requested the alternatives be revised and better developed for possible use as a framework for the DLIS. Ms. Messer said a draft was completed and is being reviewed and will return to the Council at the May meeting.

Mr. Jones announced there would be an independent peer review of the methodology proposed by ARCADIS. Information on the Peer Review is posted on the Council website at <http://deltacouncil.ca.gov/event-detail/11868>. Attachment 1 to the staff report provided

details on the Panel. It is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-11-attachment-1-information>. He also discussed stakeholder coordination and announced the two public meeting on April 27 in Stockton and April 29 in Walnut Grove. Mr. Jones stated the focus of the meetings would be to update the public on the project's status including the presentation of the technical materials that will be evaluated as part of the independent peer review process.

Following Ms. Messer and Mr. Jones, Larry Roth, ARCADIS, provided a PowerPoint on cost allocation and methodology. Mr. Roth's presentation is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-april-23-2015-meeting-agenda-item-11-powerpoint-presentation-dlis>.

Throughout the presentation of Item 11, Ms. Messer, Dustin Jones, Larry Roth and Dan Ray heard Council members' comments, answered questions, and provided clarification. Chair Fiorini asked if there were any members of the public who wished to comment on the item.

Public Comment – Agenda Item 11

Erik Ringelberg, Local Agencies of the North Delta, requested to comment on the water code requirements. Mr. Ringelberg thanked Vice Chair Isenberg for his comments on drought planning, stating he thought we had been through enough drought cycles to know what is needed and he agreed that being in drought-reactive mode doesn't move us forward in planning process. Mr. Ringelberg felt that now would be the time for the Council to look at ways to reduce reliance on the Delta. Regarding the independent scientific review panel, Mr. Ringelberg was pleased to see a social scientist included on the panel and stated he believed Dr. Cutter would bring a different set of views and valuable perspective to the panel. Mr. Ringelberg spoke on the backup technical documents and the need to synthesize the information as it was too difficult and complex for the broader public. Regarding project methodology, in particular the cost allocations, Mr. Ringelberg suggested it would be useful to articulate the relationships of the cost assignment back to the policy and gave an example. Mr. Ringelberg felt that agricultural values, cultural, recreational values and historic properties were missing from the process and felt it was very important to bring those values back in.

Melinda Terry, California Central Valley Flood Control Association, requested to comment on risk reduction and beneficiary methodology, and consistency with Proposition 218 limitations on the Delta landowners. Regarding the peer review panel, Ms. Terry noted that an "on the ground" engineer was not included on the panel and felt adding someone with that expertise would help to balance the panel. Regarding the methodology discussed, Ms. Terry stated Proposition 218 needed to be kept in mind when developing the methodology to keep it consistent with Proposition 218. Ms. Terry discussed the difficulties of identifying mechanisms that could be used to charge beneficiaries other than the landowners, since property assessments couldn't be used for that purpose. Ms. Terry expressed concern of the description she heard today of the methodology. Ms. Terry stated not only did the methodology sound complicated, she felt it might not be the most effective and efficient and

could delay getting funding out the door, increasing the state's liability during the time period that the levees are not being improved. Ms. Terry hoped that when developing the methodology it should be efficient as to not delay any improvements. Ms. Terry added that reducing flood risk was really about reducing the consequences of flood risk, meaning the assets (property and people at risk). Ms. Terry's final comment included a description of the Delta Protection Act and her understanding of reason for its creation of the primary and secondary zones. Ms. Terry stated the secondary zone may be where the consequences of risk go up and Ms. Terry stated from her understanding, the reason the primary zone was created was to protect the agricultural heritage of the Delta. She said she did not see what she called a coequal goal of protecting Delta as Place captured in the methodology with water supply reliability and ecosystem restoration.

Kathleen Rugel, Independent scientist and writer, complimented the Council and attending parties. Ms. Rugel stated being from another basin, she was observing the daunting task before the Council and others to manage the water resources of the Bay-Delta region under both normal and current crisis conditions. Ms. Rugel stated she wanted to commend the Council and others for their hard work, diplomacy and perseverance and while some may believe that the end result may or may not be ultimately successful, she believed that everything the Council was doing and has done has already had an impact and will inspire others in similar efforts.

12. Public Comment

Chair Fiorini asked if there were any members of the public who wished to address the Council. There were none.

13. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date –Thursday, May 28.

The meeting adjourned at 4:57 p.m.