

October 21, 2015

VIA EMAIL

Cindy Messer
Executive Director
Delta Stewardship Council

Re: Council meeting of October 22, 2015
Agenda item #10
Policies to address conveyance, storage, and the interoperation of both

Dear Ms. Messer:

These comments are submitted on behalf of Save the California Delta Alliance. Attached is a redline version of Agenda Item #10, Attachment 1, Draft Principles for Water Conveyance in the Delta, Storage Systems, and for the Operation of Both to Achieve the Coequal Goals. Like your draft, these redline suggestions are preliminary and submitted in the hopes of stimulating discussion, consideration, and perhaps prompting Council input for further refinement. We thank you and the Council in advance for considering our input and views. I would have hoped to get these suggestions to you more in advance of the meeting and will endeavor to do so with future comments.

The principles guiding the redline suggestions are as follows:

I. Fix Should Be Assessed On The Basis Of Regulatory Policies Not High Level Principles.

We are concerned that a glance over the Council's shoulder at Water Fix ("Fix") fast approaching may unduly hinder appropriate and prompt adoption of legally enforceable regulatory policies governing conveyance, surface storage, groundwater recharge/storage, and the inter/reoperation of all these elements. We respectfully suggest that Fix should be judged on the basis of fully adopted regulatory policies rather than "high level principles" as was suggested might be a possibility in the staff cover memo for Agenda Item #10.

Hindsight, of course, is always 20-20. The Council decided not to adopt enforceable policies for conveyance (or make any suggestions regarding conveyance options) in the hope and belief that the BDCP would succeed. Appendix A to the Delta Plan mentions "failure of the BDCP." Whether recent developments are regarded as failure or a change of direction might depend on one's point of view and semantic

sensibilities. However, the Council expected and acted on its expectations that a process would culminate in a specific outcome that has not timely come about.¹

It is entirely possible, perhaps likely, that Fix will not come to fruition or will be significantly changed if and when it does come to fruition. A glance at Fix/BDCP RDEIR section 4.1.1 betrays anxiety on the part of Fix proponents about the lawfulness of the current Fix NEPA/CEQA process stemming from their change of direction. With history as a guide, we urge the Council not to plan to assess Fix in any manner that deviates from a duly adopted amendment to the Delta Plan and publication of resultant regulations in the California Code of Regulations.

Regulations governing storage, conveyance, and interoperation should be adopted promptly. Fix should not interfere with, displace, or hinder rigorous development and application of enforceable regulatory policies.

II. Regulatory Policies Should Be Adopted That Require Major Conveyance Projects To Include Detailed Alternative Analysis Of Combination Projects Including Storage And Other Elements.

We believe major (or perhaps “mega” would be a more appropriate albeit colloquial description) conveyance projects should, as a part of environmental review, give detailed consideration to alternatives that combine elements of conveyance, storage (including surface and groundwater recharge and storage), water use efficiency/conservation, and the interoperation/conjunctive management of all these elements. Perhaps the BDCP should have included a storage element that would have allowed it to fulfill its Big Gulp/Little Sip promise and “store floods to ride out droughts, and give the Delta a break” as the Delta Plan commends. Perhaps outcomes would have been different if it had. Such combination alternatives should be addressed by project proponents in the final EIR/S as the preferred alternative or final alternative(s). Of course, it is up to project applicants to decide whether stand-alone or combination conveyance projects will be proposed. But the Council (and the public) should have the benefit of combination project alternative(s) analysis in assessing whether the proposed project complies with the Delta Reform Act and Delta Plan.

III. The Term “Delta Conveyance” Should Include Projects That Convey Delta Water Whether Within Or Without The Statutory Delta.

The term “Delta conveyance” as used in the Draft Principles should be defined to include projects that convey water exported from the Delta whether those projects are located within or without the statutory Delta. For example, conveyance projects that might connect the SWP or CVP to new groundwater recharge facilities located in the San Joaquin Valley have great potential to advance the coequal goals. Perhaps if the BDCP had included plans for such conveyance and groundwater banking, in addition to the tunnels, it would have had the capacity to restore Delta flows and would not have drawn the ire of federal regulators.

¹ It is incumbent upon me to mention that DWR is circulating the BDCP as an alternative under consideration in the currently recirculating RDEIR. It therefore remains a possible alternative.

IV. Water System Operational Principles Should Include Numerical Flow Criteria.

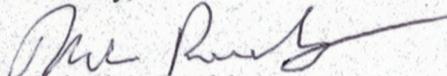
As you may be aware, Save The California Delta Alliance favors numerical flow criteria based on the State Water Resources Control Board's Flow Criteria Report that recommends restoring Delta flows to 75% of unimpaired flow. We have suggested that the Council could implement this goal by adopting a policy that requires covered actions to advance, wherever feasible (and not hinder when it is not feasible to advance), achieving this goal by a date in the future. Perhaps twenty years, perhaps less, would be required to achieve this goal in a way that does not disrupt the reliability of the water system. It could perhaps be implemented through milestones percentages of unimpaired flow along the way. We believe that the Council's adoption of such a policy would be an "infrastructure forcing" standard much along the model that more traditional regulatory agencies use "technology forcing" standards. The technology for restoring Delta flows is well-established. We need the Council to provide the regulatory impetus for moving forward with existing technology in the form of new conveyance, storage, and the interoperation of both to achieve restored Delta flows.

In any event, we believe that hard numbers are required to assess progress in restoring Delta flows and new conveyance and storage projects are necessary to achieve restored Delta flows. These projects should be assessed by numerical flow criteria whether it be percentage of unimpaired flow over time, export to inflow ratio, or other numeric flow criteria. These standards are needed now and cannot await what might be a multi-decade process at the SWRCB.

In addition to the above four principles, we would also like to suggest that Delta as Place policies should be strengthened in relation to new water infrastructure located within the Delta. Recent experience with the BDCP proposal to turn the area between Hood and Walnut grove into a vast industrial wasteland points to the need for such policies. Although the latest iteration of Fix has toned down local impacts somewhat, it was a herculean battle to get the project proponents to do what they have done so far to reduce local impacts. More robust Delta Plan policies would have been a great benefit and the battle may ultimately not be won without the support of the Council.

Thank you for the opportunity to submit these comments and for considering our views.

Sincerely,



Michael A. Brodsky

New or Improved Water Conveyance, Storage Systems, and the Operation of Conveyance and Storage is Needed Now. The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. ~~The current drought underscores this crisis. The current drought—and the likelihood of continually worsening climatic conditions--underscores this crisis. The current drought and expected future climatic challenges to water supply and ecosystem needs also underscore the fact that new or improved conveyance alone cannot resolve the crisis because no matter how much improved, conveyance cannot be of benefit when there is no available water to convey. Conveyance, storage, and the interoperation of both must be promptly addressed in an integrated manner in order to resolve the crisis.~~ The Delta Plan includes a series of policies and recommendations intended to build regional self-sufficiency and reduce reliance on the Delta. ~~However, Although regional actions alone will not be sufficient. After decades of study, decisions on, reducing reliance through regional self-sufficiency is essential to resolving the crisis and should be considered when developing and addressing conveyance, storage, and the operations of conveyance and storage need to be made promptly to further the coequal goals interoperation.~~

Delta Conveyance Principles

1. New or improved ~~Delta~~ conveyance infrastructure that conveys Delta water, whether within or outside the statutory Delta (“Delta conveyance infrastructure”), should enhance the Delta ecosystem, including restoring more natural flows, and increase the reliability that water available for export supplies can be exported.
2. Flexibility is key to new or improved Delta conveyance infrastructure. Conveyance improvements should be able to adapt to changing conditions (hydrology, climate change, and ecosystem needs) both near-term and in the future while continuing to provide benefits to the ecosystem and reliably convey available water supplies.
3. New or improved Delta conveyance infrastructure should increase resiliency of the state's water supply systems in the face of future threats to climate change and levee failures due to sea level rise, more frequent flood events and earthquakes.
4. The benefits of new Delta conveyance infrastructure should be maximized by contemporaneously integrating conveyance infrastructure projects with: 1) new and expanded storage projects, implementing; 2) projects that increase water-use efficiency and conservation, improving; 3) projects that improve groundwater management; and restoring 4) projects that restore the structure and function of some key Delta ecosystems. New Delta conveyance infrastructure by itself does not create an any new supplies of water and by itself will not achieve a restored Delta.

5. Because of the importance of integrating conveyance with new and expanded surface storage projects, projects that increase water-use efficiency and conservation, and projects that improve groundwater management and implement groundwater recharge and storage, major new conveyance projects should, as a part of their environmental review process, consider **in detail** the feasibility of including these elements as part of the preferred alternative or final alternative(s).

Water Storage System Principles

- ~~56.~~ New or expanded water storage projects above and below the Delta are necessary. They should enhance the ability to divert and store water during wet periods, contribute additional flows during dry periods, improve system flexibility to meet the coequal goals, and **where feasible should** provide multiple additional benefits such as flood control, recreation, or hydropower generation. Projects enhance the Delta ecosystem when they help better manage water quality and water temperature—especially during dry years, ~~and~~ when they increase the reliability of water supplies for wildlife refuges, **and when they significantly contribute to restoring Delta flows.** Storing water in wet periods to use in dry periods ~~also increases~~ **is indispensable to increasing** California’s water supply reliability **over the long term.**
6. New or expanded storage projects should be cost effective. The amount of new storage that can be added to the system is limited by California’s hydrology and topography . Smaller regional surface water storage projects ~~and groundwater storage projects~~ can sometimes provide significant benefits at a more affordable cost.
77. New and expanded regional groundwater storage projects are an essential element required to meet the coequal goals. Groundwater recharge and storage projects should be promptly implemented along with conveyance and surface storage projects in an integrated manner.
8. Groundwater storage opportunities should be protected. Groundwater basins in the Central Valley provide the largest amount of existing capacity to store excess flows from wet years, **which could be conveyed to groundwater storage sites by new Delta conveyance infrastructure.** This Capacity is threatened by land use decisions and by land subsidence caused by groundwater overdraft.
89. New or expanded storage projects should provide both immediate and enduring ecosystem and water supply benefits. Climate change and

California's changing hydrology will challenge the ability for existing storage systems to maintain the level of benefits they currently provide.

- ~~9~~10. New or expanded water storage projects are part of a system and should support a comprehensive approach to managing the water cycle. This also includes conjunctive management of rivers, groundwater, surface storage, floodplains, and wetlands, that enhance groundwater recharge and improvements in regional water self-sufficiency.

Delta Water System Operational Principles

- ~~4~~11. Water exported from the Delta should more closely match water supplies available to be exported. This should be based on water year type and consistent with the coequal goal of protecting, restoring, and enhancing the Delta ecosystem.
- ~~4~~12. Storage and conveyance should be operated to provide more natural, functional flows to enhance Delta inflows and outflows by storing water in wet periods and reducing diversions in dry periods, consistent with the needs of the Delta ecosystem and water users.
- ~~4~~213. Operational decisions should be based upon more accurate, timely, and transparent water accounting and budgeting.
- ~~4~~314. Additional water supplies can be derived from more efficient reoperation of existing infrastructure.
- ~~4~~415. Water storage operational guidelines should adopt multi-year planning ~~horizon~~horizons to ensure adequate carryover of stored water in surface and groundwater reservoirs at the end of each water year to buffer against multiple dry years.
- ~~4~~516. Surface and groundwater storage, whenever feasible, should be operated conjunctively to reduce long term groundwater basin overdraft and improve groundwater basin recharge.
- ~~4~~617. Conveyance and storage infrastructure and their operation should provide real benefit to the ecosystem, in contrast to just protecting the ecosystem from further degradation.
- ~~4~~718. Operation of storage and Delta conveyance infrastructure should be informed by best available science, adequately monitored and evaluated, and adaptively managed to ensure progress towards well-defined performance measures that include, but are not limited to, specific numerical flow criteria such as a percentage of unimpaired flow, export to inflow ration, or other numeric flow objectives.

~~1819~~. Ecosystem benefits should be assured through contracts, legally enforceable operations and governance protocols, or other enforceable agreements.

12). Ecosystem benefits may also be assured through physical configuration of new infrastructure, such as sizing of conveyance capacity or citing/location/river stage elevation of intakes.