

## **ACTION ITEM**

### **Proposed Delta Plan Amendment to Address Water Conveyance, Storage Systems, and the Operation of Both to Achieve the Coequal Goals**

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**Summary:** Staff will present options and recommendations and receive guidance regarding the scope and process for a proposed Delta Plan amendment to address water conveyance, storage, and the operation of both to achieve the coequal goals. Staff recommends the Council direct development of a potential Delta Plan amendment that may include new recommendations and/or regulatory policies and performance measures based on the *19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals*.

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#### **Requested Action**

Staff recommends the Council direct staff to develop a proposed Delta Plan amendment that may include new recommendations and/or regulatory policies and performance measures based on the *19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals*.

#### **Background**

When the Council developed the Delta Plan in 2013, it organized the structure of the plan around the coequal goals and specific sub-goals (i.e., chapter titles) developed by the Council. The narrative section of each chapter provides the context and rationale for the selection of core strategies. At the end of each chapter is a section containing actions, i.e. regulatory policies and recommendations, organized under core strategies. Each core strategy has a description and problem statement that the policies and recommendations are intended to address.

The Council developed four core strategies to achieve the goal of providing a more reliable water supply for California. One is to improve conveyance and expand storage. In the narrative of the Delta Plan's Chapter 3, *A More Reliable Water Supply for California*, the Council made clear that improved conveyance and expanded storage would allow a change in Delta diversion patterns, potentially allowing more water to be diverted during wet years when there is significantly more water available for diversion, and less in dry years when the water is needed for in-Delta water quality and ecosystem protections.

To address this core strategy, the Council identified four actions, all recommendations:

- WR R12: Complete the Bay Delta Conservation Plan (BDCP), consistent with the provisions of the Delta Reform Act, by December 31, 2014
- WR R13: Complete surface water studies by December 31, 2012

- WR R14: Identify near-term opportunities for storage, use, and water transfer projects
- WR R15: Improve water transfer procedures by December 31, 2016

Affecting WR R12, the Administration in April 2015 announced a new preferred alternative to the BDCP that would not complete the BDCP as a Natural Community Conservation Plan (NCCP), but instead construct water conveyance facilities through an initiative called California WaterFix. A parallel effort called California EcoRestore was proposed to accelerate implementation of a suite of habitat restoration actions being planned in the Delta.

Appendix A of the Delta Plan, which describes the Council's role in the BDCP, provides, in part, that "should the BDCP process not be completed by January 1, 2016, the Council intends to revisit the issue of conveyance to determine how to facilitate improved conveyance facilities without the BDCP." Consequently, during the summer and fall of 2015, the Council began a process to develop a potential amendment of the Delta Plan regarding conveyance, storage, and operations, including a problem statement and a set of principles.

During the development of its principles for conveyance, storage, and operations, the Council heard from several expert panels. Key messages included:

- Flexibility and resiliency are critical in water storage and operation of the water system;
- Opportunities exist in groundwater storage and conjunctive use;
- New governance may be required for future water system management; and
- The Council has a unique opportunity to look beyond current controversies and set forth a long term vision of the Delta for other agencies to follow.

The discussion was framed by specific requirements in the Delta Reform Act, including Water Code section 85304, which states, "The Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals."

At the November 2015 Council meeting, the Council adopted *19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals* <http://deltacouncil.ca.gov/docs/19-principles-water-conveyance-delta-storage-systems-and-operation-both-achieve-coequal-goals>. These principles reflect the advice and input of the expert panels, Council member input, and public comment. Prior to the Council's vote, staff commented that adoption of the principles would be taken as direction to staff to return to the Council to present a scope and proposed process for turning the principles into a potential Delta Plan amendment.

## **Today's Briefing**

The purpose of today's meeting is twofold: 1) present recommendations and receive input regarding the scope and process for proposed Delta Plan amendment to address water conveyance, storage, and the operation of both to achieve the coequal goals; and 2) recommend that the Council direct staff to develop a draft Delta Plan amendment that will include new recommendations and/or regulatory policies and performance measures based on the *19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals*.

### ***Scope of the Amendment***

The Council has taken preliminary steps to determine the scope of a potential amendment, including developing a problem statement and the *19 Principles*, and reviewing the best available science. Staff seeks input from the Council and the public on several additional aspects of the scope.

1. **Problem Statement.** Staff recommends using the problem statement developed for the *19 Principles* (Attachment 1) as a working draft of the problem statement that will shape the amendment.
2. **Application of the 19 Principles.** Staff has evaluated each of the *19 Principles* to determine the extent to which it already is reflected in the Delta Plan. We found that two principles were reflected in recommendations and one principle was reflected in a policy and recommendations. The rest of the principles were only represented in the narrative or did not appear at all. Thus, there is potentially significant work to do to amend the Delta Plan to reflect all 19 of the principles. Staff recommends developing a suite of draft policies and recommendations, with associated performance measures, in response to the problem statement. The final amendment, as a whole, should address all of the principles to some extent.
3. **Best Available Science.** The Council has reviewed a summary of the best available science related to conveyance, storage, and operations, which was presented at its October 2015 meeting (Attachment 2). As required by Water Code section 85302(g), the Council shall make use of this information in determining which measures to include in the Delta Plan.
4. **Types of Influence.** Staff recommends that the Council consider the types of influence that the proposed amendment could have. For example, the amendment could:
  - Encourage operations that would store water in wet periods and reduce diversions in dry periods to protect water quality in the Delta, provide more natural, functional flows, and enhance Delta inflows and outflows, consistent with the needs of the Delta ecosystem and water users

- Establish a process for defining, monitoring, and evaluating Delta ecosystem benefits of conveyance and storage projects based on the best available science
- Encourage water infrastructure planning that increases the resilience of the state's water supply system by incorporating the best available climate change projections
- Accelerate conjunctive use projects (i.e., coordinated use of surface and groundwater systems for water storage and supply) to reduce long term groundwater basin overdraft and improve groundwater basin recharge

Staff seeks input from the Council and the public on the types of influence it would like the amendment to have, consistent with the *19 Principles*.

5. **Understand the Roles of Other Agencies.** State and federal regulations cover a range of issues relevant to water conveyance, storage, and the operation of both to achieve the coequal goals (Attachment 3). These regulations cover issues ranging from safety of dams and water quality protection to protection of natural resources and wildlife. In order to develop a proposed amendment that complements where appropriate the work of other agencies, staff will arrange Council briefings as needed to clarify the regulatory context and will consult with other agencies during the development of the amendment.
6. **Performance Measures.** In February 2016, the Council amended the Delta Plan to incorporate new and revised performance measures, including measures related to conveyance, storage, and the operation of both to achieve the coequal goals. During the discussions leading up to the adoption of the performance measures amendment, both Council members and the public suggested additional new and revised performance measures related to conveyance, storage, and operations. The Council determined that consideration of those performance measures should be deferred until the development of the conveyance, storage, and operations amendment. These included groundwater management targets as they relate to conveyance, storage, and operations and water delivery reliability metrics. Staff recommends consideration of these and other new and revised performance measures as part of this amendment.
7. **Language Updates.** Staff recommends removing or updating outdated language throughout the Delta Plan, such as references to the Bay Delta Conservation Plan, the Department of Fish and Game (now Department of Fish and Wildlife), etc., to reflect changes that have occurred since the 2013 Delta Plan was adopted.

### ***Process for Developing the Amendment***

Staff proposes a 3-step process to develop and evaluate a proposed Delta Plan amendment for Council review and eventual approval. The proposed process is as follows:

- **Step 1: Define the Problem and Identify Goals and Objectives**
  - The Council developed a problem statement to guide the development of *19 Principles*. This same problem statement can be used as a working draft to shape the amendment.
  - The Delta Reform Act established the coequal goals as State policy and the Delta Plan regulations (Water Code section 5001(h)) provide additional definition of what it means to achieve the coequal goals.
  - The *19 Principles* provide additional guidance for the development of the amendment.
  - Staff will engage with the Council to develop objectives that will further define the scope of work for the proposed amendment.
- **Step 2: Develop Draft Amendment and Solicit Input and Review**
  - Staff will develop “strawperson” policies/recommendations and obtain feedback from experts, agencies, Council members, and the public through these possible actions:
    - Work with Delta Science Program staff and consultants to develop technical white papers to inform the amendment, as needed.
    - Convene a working group of agencies whose responsibilities affect conveyance, storage, and operations to assist in development of amendment alternatives and help avoid overlap with existing regulations.
    - Hold workshops, as part of Council meetings and potentially outside of Council meetings, to get input from Council members and the public.
  - Staff will develop a draft proposed amendment, including policies/recommendations, associated performance measures, revisions to the narrative, and issues for future evaluation and coordination, and present the proposed amendment at a Council meeting to seek additional public input and Council review, discussion, and comment.
  - Staff will revise the draft amendment, based on input from the Council and the public, and recommend a proposed Delta Plan amendment for adoption by the Council.
  - In conjunction with presenting the draft amendment, staff will recommend an associated action to comply with California Environmental Quality Act (CEQA) requirements.

- Council will direct staff on whether to proceed with CEQA compliance based on the proposed amendment.
- **Step 3: Council Vote on Proposed Amendment and CEQA Document and Direction on Seeking Regulatory Approval, If Necessary**
  - Council votes on whether to approve amendment and CEQA document.
  - If the amendment included regulatory policies, the Council would direct staff to seek approval of the regulations by the Office of Administrative Law.

### **Next Steps**

Staff will draft a list of objectives and some initial “strawperson” policies and recommendations based on input from today’s Council meeting regarding the scope of the amendment. The draft policies and recommendations may be vetted through a public process prior to presentation to the Council.

### **Fiscal Information**

Not applicable.

### **List of Attachments**

- Attachment 1: 19 Principles for Water Conveyance in the Delta, Storage Systems and for the Operation of Both to Achieve the Coequal Goals
- Attachment 2: Delta Plan Summary and New Scientific Findings for Delta Plan Update in Storage, Conveyance and Operation
- Attachment 3: Regulatory Context for Water Conveyance, Storage, and Operations in California

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