

DRAFT 4/2/12 – SUBJECT TO CHANGE
For Review and Adoption by DSC at April 26-27, 2012 Meeting
DELTA STEWARDSHIP COUNCIL
March 29-30, 2012
West Sacramento Community Center – Community Room
1075 West Capitol, Avenue, West Sacramento, California

MEETING SUMMARY

DAY 1: Thursday, March 29, 2012, 10:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 10:02 a.m., March 29, 2012, by Chair Phillip Isenberg.

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

Roll call was taken and a quorum was established. The following members were present: Patrick Johnston, Gloria Gray, Felicia Marcus, Randy Fiorini, Phillip Isenberg, and Don Nottoli. Absent: Hank Nordhoff.

3. Chair's Report

Chair Isenberg said the Council would hear about the newly released report on the Bay-Delta by the National Academy of Science during the Lead Scientist's Report. The report released by the National Research Council of the National Academies, entitled *Sustainable Water and Environmental Management in the California-Delta*, is posted on the Council website at [http://deltacouncil.ca.gov/sites/default/files/documents/files/13394\[1\].pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/13394[1].pdf)

Chair Isenberg requested the distribution of a letter dated March 26, 2012 from Senator Dianne Feinstein to Randy Record, President of the Association of California Water Agencies (ACWA) regarding her opposition to H.R. 1837. The letter was posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/FEINSTEIN_LETTER.pdf

Chair Isenberg thanked the members who continue to represent the Council at the various speaking engagements taking place throughout the state.

4. Executive Officer's Report (Information Item)

a. Legislative and Legal Update

Curt Miller presented a brief Legislative Update. Mr. Miller reported on the Senate Budget subcommittee hearing and reported the Council's budget had been approved. Mr. Miller made brief remarks on S.B. 1495 (Wolk). He will continue to monitor the bill and update the Council. Mr. Miller also brought the revised Report to the Legislature on the Draft Delta Plan to Council members' attention. The draft report was previously brought to the Council for review and discussion at the March 15-16, 2012, meeting and a revised draft report was again presented to the Council for their approval. Mr. Miller received confirmation from the Council to finalize and forward the report to the legislature. The final report is posted on the Council website at <http://deltacouncil.ca.gov/sites/default/files/documents/files/Sacramento-San%20Joaquin%20Delta%20Plan%20Report1.pdf>

Mr. Miller also announced that the zero-based budget was forwarded to the Department of Finance on Monday, March 26, 2012. Following Mr. Miller's briefing, Chair Isenberg requested Mr. Miller talk about Senator La Malfa's bill and asked what policy implication it would have on the coequal goals and what it does to a reliable water supply. Chair Isenberg noted that the Council did not want to take a position on the bill but just wanted to note it for future updates of policy implications it could have on the Delta Plan. Mr. Miller provided a brief update and stated he would provide further updates as they become available.

There was no Legal Update at the March 29-30 meeting. However, Mr. Stevens requested Chair Isenberg take Agenda Item 9a out of order for an update on the CEQA process and an EIR discussion. Without objection from the Council, Mr. Stevens proceeded to introduce Jim Andrew and Gwen Buchholz for the discussion of CEQA and EIR process and issues.

Mr. Stevens requested the Council turn to page three of the staff report for Agenda Item 9a for the discussion. Mr. Andrew began by giving an update of where we were in the CEQA process and explained why CEQA existed and what it was intended to do. He also explained the uniqueness of the Delta Plan and its CEQA compliance process. Mr. Andrew and the Council discussed the major themes of the EIR comments received. Many of comments received on the Delta Plan EIR were comments on the composition and structure of the Delta Plan itself, or on the BDCP rather than the Delta Plan.

Throughout the discussion, Mr. Stevens, Mr. Andrew and Ms. Buchholz heard Council members' remarks and provided clarification and answered Council members' questions.

b. Update on Bay Delta Conservation Plan (Water Code §85320)

Mr. Grindstaff briefly mentioned the draft "Responsible Agency" letter on the BDCP's administrative draft EIR that was discussed at the last Council meeting. He stated he had received a draft letter prepared by staff late last week but it was not in shape to bring to the Council. Mr. Grindstaff's intent was to send the letter by the April 16 deadline and provide a copy for the Council at the April meeting. BDCP staff have asked the Council for comments on its released documents of the administrative draft EIR and rather than addressing every technical issue, staff was attempting to address the key CEQA-related issues that the legislation said the Council must evaluate if an appeal of DFG's determination with regard to BDCP is made to the Council.

c. Quarterly Contracts Update

Mr. Grindstaff noted the inclusion of a table that listed the current status on current agreements for the first quarter, January-March, 2012.

Following the Executive Officer's report, Chair Isenberg called for questions or comments from the public.

Public Comment – Executive Officer's Report, EIR Discussion

Doug Brown, Delta Counties Coalition, was concerned about how CEQA had been characterized in the EIR discussion. His primary concern was that CEQA was a disclosure process so the public would know what their government officials are deciding about a project and was concerned that if the project wasn't disclosed in the draft EIR the public wouldn't have the ability to understand the environmental ramifications. Mr. Brown felt that recirculation of the EIR was important.

Mark Rentz, ACWA, requested clarification as to when the need for recirculation of the Delta Plan EIR would be determined. Mr. Grindstaff stated it would be determined if recirculation was necessary at the May meeting, after comments were received and after the final staff draft Delta Plan was released. Mr. Andrew clarified that a legal assessment on recirculation of the EIR would come in May.

5. Adoption of March 29-30, 2012 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions, suggestions or comments from the Council or the public about the March 29-30, 2012, Meeting Summary. Chair Isenberg requested modification of paragraph 1 on page 8. Staff will change the last sentence to read "*Chair Isenberg also requested that the charts and graphics be ready for the Council to approve at the April 26-27 Council meeting and the staff agreed and will schedule that.*"

Chair Isenberg asked if there were any other questions or comments and, as there were none, it was moved (Johnston) and seconded (Fiorini) to approve the March 29-30 meeting summary as amended. A vote was taken (6/0: Johnston, Gray, Marcus, Fiorini, Isenberg, Nottoli) and the motion adopted.

6. Delta Science Program (Information Item)

a. Lead Scientist's Report (Water Code §85280)

Dr. Goodwin presented an update on the 2012 Delta Science Fellows Program. In November 2011 the Council approved a contract to support a new class of Delta Science Program Fellows to support research directly relevant to the coequal goals of maintaining a reliable water supply and improving ecosystem health. In late February the Delta Science fellows released its advance notice for the 2012 Request for Applications (RFA) that identified priority research topic areas. The RFA is scheduled for release in late March and selection of fellows will take place during spring-summer 2012, with awards to selected fellows available in fall 2012. More information about the Delta Science Fellows Program is posted on the Council website at <http://deltacouncil.ca.gov/science-program/fellows-program>

Dr. Goodwin updated the Council on a multi-phase independent scientific review of the Draft BDCP Effects Analysis chapter and related appendices (Chapter 5) that was being coordinated by the Delta Science Program. The review is scheduled for April 30 – May 1, 2012.

Dr. Goodwin announced the latest issue of the online journal *San Francisco Estuary and Watershed Science* would be released in late March. The journal can be accessed at http://escholarship.org/uc/jmie_sfews. He also announced upcoming Delta-related science events that were scheduled:

- 30th Annual Salmonid Restoration Conference, information can be found on the conference webpage <http://www.calsalmon.org/conference/30th-annual-salmonid-restoration-conference>
- California Water and Ecosystem Monitoring Forum Annual Meeting/Interagency Ecological Program Annual workshop. For information visit the meeting workshop web pages at <http://www.water.ca.gov/iep/activities/workshop.cfm> and <http://cwemf.org/Activities/annualmtg.htm>
- 7th Biennial Bay-Delta Science Conference (formerly known as the CALFED Science Conference). For conference information visit <http://scienceconf.deltacouncil.ca.gov/>

Dr. Goodwin gave an overview of the report released by the National Research Council of the National Academies, entitled *Sustainable Water and Environmental Management in the California-Delta*. Dr. Goodwin stated there were no big surprises found in the report that examined the factors affecting the Delta and what it would mean to achieve the coequal goals. The report reviewed future water supply and delivery options, identified knowledge gaps, and advised on the degree of restoration that is likely attainable, while maintaining both an environmentally sustainable ecosystem and a reliable water supply. The report is posted on the Council website at [http://deltacouncil.ca.gov/sites/default/files/documents/files/13394\[1\].pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/13394[1].pdf)

7. Reports from Other Agencies (Water Code §85210(h)) (Information Item)

a. Sacramento-San Joaquin Delta Conservancy Strategic Plan

Campbell Ingram, Executive Director of the Sacramento-San Joaquin Delta Conservancy appeared before the Council to present the draft Strategic Plan that was released for public review on March 26, 2012. Mr. Ingram presented information on the draft Strategic Plan and stated that comments were due by April 20, 2012. Mr. Ingram stated public work sessions, scheduled in Rio Vista, Clarksburg, and Oakley were scheduled to receive comments on the draft Strategic Plan. Council staff will review the draft Strategic Plan and provide comments to the Conservancy regarding consistency between the draft strategic plan and the staff draft Delta Plan. Mr. Ingram answered Council members' questions and provided clarification on the draft Strategic Plan. The draft Strategic Plan is posted on the Conservancy website at http://www.deltaconservancy.ca.gov/docs/DC_StratPlan_Draft_Version_Public_Comment_0327_12.pdf and information on the public hearings are posted at <http://www.deltaconservancy.ca.gov/>

Following Mr. Ingram's briefing, Chair Isenberg asked if there were any members of the public wishing to comment.

Public Comment – Agenda Item 7a

Osha Meserve, Local Agencies of the North Delta, stated after skimming through the document she felt it was going in the right direction and the feedback received from the community was being incorporated. Ms. Meserve stated in order to do the restoration, good relations with landowners, etc. would be needed. Ms. Meserve stated they would be commenting on the strategic plan.

At the conclusion of public comment for Agenda Item 7, the Council recessed for lunch at 12:10 p.m. and resumed the meeting at 1:04 p.m.

8. Comments on Environmental Impact Reports (Information Item)

a. Comments on the State Water Resources Control Board's Notice of Preparation for Water Quality Standards (Water Code §85210(j))

Joe Grindstaff introduced Mark Bradley, Staff Engineer with Delta Stewardship Council, who presented Agenda Item 8a. Mr. Bradley explained that the State Water Resources Control Board (SWRCB) was currently reviewing the 2006 Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta Plan) to determine if updates to the water quality objectives, including flow objectives and other implementation actions, were needed. Comments are due to the SWRCB April 25, 2012. State and federal law requires the

periodic review of these plans to ensure that they reflect current conditions. The current update of the Bay-Delta Plan that began in 2009 is scheduled to be completed in 2013. This will be the fourth review of the plan since its adoption in 1978.

Mr. Bradley stated the update was being done in two phases and briefed the Council on Phase I and Phase II. Staff requested Council approval to comment as needed on the SWRCB's environmental document relating to their review of the Bay-Delta Plan. Mr. Bradley handed out a copy of the SWRCB's Notice of Preparation and Notice of Scoping Meeting for Environmental Documentation for the Update and Implementation of the Bay-Delta Plan. It was posted on the Council website at

http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_8_SWRCB_NOP.pdf

Mr. Grindstaff emphasized the need for a holistic approach with public input and understood the concern caused by the phrase "a more natural flow regime". Mr. Grindstaff also explained the Council's role as a responsible agency and stated he felt it was important to lay out the important issues. Mr. Grindstaff and Mr. Bradley heard Council members' remarks, provided clarification and answered questions.

Chair Isenberg asked if there were any members of the public who wished to comment. Following the public comment period on Agenda Item 8a, Mr. Grindstaff stated he would draft a letter, circulate it to the Chair and Vice Chair in the next few weeks, and would send it to the State Board by the deadline date for the comment period which is April 24, before the next Council meeting.

Public Comment – Agenda Item 8a

Greg Gartrell, Contra Costa Water District, commented on behalf of the Ag-Urban Coalition. Mr. Gartrell summarized the District's concern with the phrase "more natural flow". He explained that there is a difference between unimpaired flows and natural flows and provided a brief discussion/description of both. Mr. Gartrell also gave examples of the District's concerns regarding flows. A letter from the Coalition to the Council regarding Agenda Item 8a was distributed at the meeting and was posted on the Council website at

http://deltacouncil.ca.gov/sites/default/files/documents/files/Ag-Urban_Coalition_032812.pdf

Jon Rubin, San Luis and Delta-Mendota Water Authority, said the lack of specificity and the general statements were of concern to the Authority. Mr. Rubin stated the Authority signed and supported the letter from the Ag-Urban Coalition. Mr. Rubin felt it was important for stakeholders to have input before the comment letter was sent. Regarding beneficial uses, Mr. Rubin felt that ultimately the State Board should adopt objectives considering the coequal goals.

Audrey Kelm, O'Laughlin & Paris, commented on behalf of the San Joaquin Tributaries Authority. She urged caution regarding the use of "natural flow". Ms. Kelm echoed the concerns of the previous commentators on the lack of specificity and felt more clarification was needed on the term "natural flow".

Ryan Bezerra, Bartkiewicz, Kronick and Shanahan, commented on "more natural flow regime" and stated he hoped the EIR would provide clarity as to what it meant and what impacts it would have especially to storage and reservoirs. Mr. Bezerra stated that analysis of the impacts to storage and reservoirs was crucial. Mr. Bezerra requested that draft letter to the Water Board return to the Council for approval at the next meeting and urged for more specificity so the impacts of a more natural flow regime can be assessed.

Tom Zuckerman, Central Delta Water Agency, stated he didn't find anything wrong with the Notice of Preparation (NOP). Mr. Zuckerman felt the Council should respect the independent authority of the Water Board – it operates under a completely different set of regulations in a quasi judicial fashion to directly amend the water rights of the parties who appear before them, and didn't believe they were responsible for the coequal goals. Mr. Zuckerman stated he felt it was appropriate to address questions but base the questions upon evidence that is presented to the Council at public hearings. If the Council wants to go beyond what is in the NOP the Council should participate in the hearings.

Brenda Burman, Metropolitan Water District of Southern California, stated she concurred with Mr. Rubin and Mr. Bezerra's comments. She wanted to make the point that when the Council speaks, people listen to it. She felt the Draft Plan had weight and power and it was tied to ER P1. In looking at the recommended actions, Ms. Burman stated she had not heard the Council deliberate on X2, sediments and TMDLs. She felt the State Board was requesting specificity and thought the Council should suggest a statement on X2, sediment and TMDL after discussion and agreement amongst the Council members.

Deirdre Des Jardins, California Water Research, read the statute that authorized the creation of the Council. It also abolished the California Bay-Delta Authority, which was the administrative agency for CALFED and the lead agency for implementation of the science component of CALFED. The statute gave the Council all the authorities and responsibilities of the Bay-Delta Authority. With respect to salinity, Ms. Des Jardins stated there is an existing goal as part of the CEQA commitment of CALFED (she read the goal/objectives from the Record of Decision). She asked for clarification about abandoning commitment of these goals since the Council was not considering the goals and objectives in its letter. Chris Stevens clarified Ms. Des Jardins' question about the CALFED ROD commitment and explained the Delta Reform Act.

Doug Wallace, East Bay Municipal Utilities District, suggested "temperature" be added to the list of elements in Phase II.

**9. Delta Plan (Note: This item was continued on Friday, March 30, 2012)
(Water Code §85300 (a)) (Action Item)**

a. Request Direction on Sixth Staff Draft Delta Plan

Joe Grindstaff presented Agenda Item 9a. The staff report and attached tables responded to the Council's direction at its March 15-16 meeting seeking additional information about major comments on the 5th Staff Draft Delta Plan. Table 1 (Attachment 1) summarized comments on nine key topics in the 5th Staff Draft Delta Plan on which the Council sought more information about representative responses to include in the final staff draft Delta Plan. Table 2 (Attachment 2) summarized all policies and recommendations included in the 5th Staff Draft Delta Plan as well as policies and recommendations proposed for the final staff Draft Plan. Table 3 (Attachment 3) was handed out at the meeting. It summarized all other comments that were representative of the many individual comments received on the 5th Staff Draft Delta Plan. Attachment 3, Table 3 – Comment Themes and Recommendations – Fifth Staff Draft Delta Plan was handed out to members and posted on the Council website at <http://deltacouncil.ca.gov/sites/default/files/documents/files/TABLE-3-Comment-Themes.pdf>

Working from Table 1, Mr. Grindstaff discussed nine key topics as well as the staff's proposed response to the comments and several alternate approaches to addressing the comments. Mr. Grindstaff and Council staff heard Council members' remarks, answered questions and

provided clarification. Public Comment was heard after each key topic discussion. The nine key topics were:

- Defining achievement of the co-equal goals and reorganizing the draft Delta Plan to emphasize these goals, and provide a better vision of what achieving them would entail, including a clearer description of how they would be achieved by the Delta Plan
- Covered actions, exemptions and determination of “significance”
- Policy GP 1: Consistency with the Delta Plan (Chapter 3 Governance)
- Policy ER P1: Update Delta Flow Objectives (Chapter 5 Restore the Delta Ecosystem)
- Policy WR P1: Reduced Reliance on the Delta (Chapter 4 Reliable Water Supply for California)
- Policy RR P4: Priorities for State Investments in Delta Levees (Chapter 7 Reduce Risk to People, Property and State Interests in the Delta)
- Policy WQ P1: Water Quality in the Delta (New proposed policy for Chapter 6 Water Quality in the Delta)
- Policy DP P1: Locate new development wisely (New proposed policy for Chapter 8 Delta as Evolving Place)
- Policy DP P2: Respect local land use (New proposed policy for Chapter 8 Delta as Evolving Place)

Public Comment – Definition of Coequal Goals

Water Supply Reliability

Michael Brodsky, Save the California Delta Alliance, submitted written comments that were handed out to the Council members and are posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/STCDA_032812.pdf

Mr. Brodsky commented on Water Supply Reliability, 20x2020 compliance, and urged the Council to adopt Option 2.

Deirdre Des Jardins, California Water Research, reiterated her earlier comment and cited the CALFED Record of Decision and the Ecosystem Restoration goals contained in it. Ms. Des Jardins felt there were two CEQA issues to be considered and the new goals should be compared with the old goals of CALFED.

Osha Meserve, Local Agencies of the North Delta, stated she supported the comments from Mr. Brodsky and believes the Council should think carefully about the policies that are discussed on the first page and pages 18 and 19. She thinks there is a way we can all reduce reliance on the Delta but felt that the policies and the recommendations should be tailored for in-Delta water users so they do not have obligations they can't meet. Ms. Meserve stated she would submit written comments regarding WR P1.

Protecting, Enhancing and Restoring Delta Ecosystem

None.

Delta as an Evolving Place

None.

Public Comment – Covered Actions: Definitions and Applicability

Mark Rentz, ACWA, commended staff for the side-by-side attachment (Table 1). He stated he believed it would be a valuable tool. Mr. Rentz commented on screening criteria and offered suggested language for significant impact and negative significant impact to make it easier for the person who is doing the initial covered action assessment.

Deirdre Des Jardins, California Water Research, had concerns when reading the Delta Plan about the effect regarding ongoing state level Delta management activities like the possible review by the Council of the new biological opinion by Fish and Game and National Marine Fisheries Service. Ms. Des Jardins felt there is an issue of consistency between the Delta Plan and the CALFED Multi-Species Conservation Strategy (a 30-year agreement). She urged for consistency with the Delta Plan and existing plans that are ongoing and were agreed upon in the CALFED Record of Decision.

Ryan Bezerra, Bartkiewicz, Kronick and Shanahan, commented on the language in the covered actions definition. He stated the Upstream Agencies appreciate the clarification that was proposed under Option 1 - to move the language about how upstream projects are not within the covered action definition to the covered action section of the Delta Plan.

Public Comment – Covered Actions: Exemptions and Exclusions

Doug Brown, Delta Counties Coalition, requested clarification of language in Option 1 – “Local government general plan amendments” and “Exceptions identified in the CEQA guidelines.” Mr. Brown felt if a project was categorically or statutorily exempt it should not a covered action.

Agenda Item 9a was continued on Friday, March 30, beginning with GP 1: Consistency with the Delta Plan (Table 1, page 14)

10. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council. There were none.

The meeting concluded for the day at 4:40 p.m.

DAY 2: Friday, March 30, 2012, 9:00 a.m. – 3:30 p.m.

11. Call to Order

The meeting was called to order at 9:05 a.m., Friday, March 30, 2012, by Chair Phillip Isenberg

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

Roll call was taken and a quorum was established. The following members were present: Hank Nordhoff, Patrick Johnston, Gloria Gray, Felicia Marcus, Randy Fiorini, Phillip Isenberg, and Don Nottoli.

13. Delta Plan (Continuation of Agenda Item 9)

Agenda Item 9a was continued from Thursday, beginning with GP 1: Consistency with the Delta Plan (Table 1, page 14). Mr. Grindstaff kicked off the discussion by describing the policy and the various options for changes to the policy.

Each topic in Table 1 was discussed in detail. Council member Nordhoff prepared a draft listing of Considerations for Prioritizing Island Levee Repairs that he handed out to Council members during the discussion of RR P4, Priorities for State Investments in Delta Levees. Council member Nordhoff's listing of considerations for prioritizing island levee repairs follows:

1. Number of residents on the island
2. Value of island's yearly economic output
3. Economic, environmental, and social (quality of Delta life) costs of the domino effect
4. Value of private, state, and federally owned assets; electrical, pipelines, rail lines, etc.
5. Value to Delta quality of life
6. Assessment of risk of levee failure by a panel of three experts
7. Cost/Benefit ratio
8. Expected value (cost multiplied by risk probability)

Council member Nordhoff stated when he was talking of value in the priority ranking, value equals the sum of economic, environmental, and social values. Human life is number one. Water volume and water quality which are both related to flow rates, should be considered under economic.

Following Council members' remarks Mr. Grindstaff and staff provided clarification and answered questions. Public Comment was heard after each key topic discussion.

Public Comment – GP1: Consistency with the Delta Plan

Doug Brown, Delta Counties Coalition, commented on the certification of consistency with the law and requested clarification that if there were a violation in the future, was it the intent to bring the action back to the Council as the enforcing agency. Mr. Brown expressed concern with the statement "comply with, and will continue to comply at all times with".

Tom Zuckerman, Central Delta Water Agency, requested clarification on the procedure that was being talked about. He stated he understood the certification and appeal process but asked if something happened in the future, how would the applicant then come before the Council to enforce the certification? Zuckerman stated he felt the policy might create a problem that the Council wouldn't need to deal with. Regarding enforcement of the certification in the future, Mr. Zuckerman felt the burden should lie with the agency that permitted the project.

John Luebbreke, City of Stockton, had a question about vested rights and the concept of certifying compliance with future laws. Mr. Luebbreke gave an example: when a city development is approved, a development agreement that defines the applicable law is developed. The agreement states the development is in compliance with current law and future changes to those laws will not be enforced by the city. Mr. Luebbreke requested an explanation of how a city will be able to comply with the state planning law and also comply with a requirement that would apply different laws at different times in the process and what laws were covered by the vesting process.

Joone Lopez, Calaveras County Water District, requested clarification on the discussion of GP 1 and certification of a project. Ms. Lopez suggested the removal of the suggested language “at all times” in the policy so it didn’t obligate the agency to follow all future laws. She suggested using “all applicable laws at the time of the filing.” Ms. Lopez stated she would provide suggested language in writing.

Public Comment - ER P1: Update Delta Flow Objectives

Tom Zuckerman, Central Delta Water Agency, stated that he had previously suggested to CALFED that the safe yield from the Delta needed to be determined. Mr. Zuckerman said had that been done, some of the issues he heard would have been resolved. He asked if it made sense to allocate taxpayer dollars without knowing what the amount of the water available for export was. He strongly felt that flow rates for the Delta need to be determined before money is spent.

Mark Rentz, ACWA, requested an explanation of the Water Board’s responsibility in addressing flows; the need for ER P1 to recognize that all factors affecting the Delta ecosystem must be addressed during its process; and to articulate in broader terms that the DSC will consider actions if deadlines are not met.

Charles Gardiner, Delta Vision Foundation, supported and urged further commitment to the performance and accountability pieces of the policy. Mr. Gardiner felt “prodding” of the State Board and stakeholders was needed. He said rather than issuing threats, the Council should emphasize consequences.

Audrey Kelm, San Joaquin Tributaries Authority, supported Mark Rentz’s comments regarding the water quality plan and supported the use of the term flow objectives not flow requirements. She also cautioned the Council in the use of threats regarding flow objectives.

At the conclusion of the discussion of ER P1, the Council recessed for lunch at 11:40, returned at 12:33 p.m. and resumed the discussion of the remaining chapters beginning with WR P1, Reduced Reliance on the Delta (page 18).

Public Comment – WR P1: Reduced Reliance on the Delta

Deirdre Des Jardins, California Water Research, addressed the Council on water use through the state and said that according to the State Water Project, urban use was up 90 percent. She felt it was critical to reduce per capita water consumption. She also commented on water use efficiency claims made by the Metropolitan Water District and felt there were measures that could be taken to reduce reliance such as landscaping, etc. and use of groundwater by golf courses. Ms. Des Jardins agreed that it was critical to have a regulatory policy if water reliance will be reduced, and to use a baseline of current use. She referred to the CALFED Record of Decision that included detailed policies.

Mark Brodsky, Save the California Delta Alliance, submitted written comments that were handed out to Council members and posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/STCDA_032812.pdf He commented on groundwater overdraft and described a project that would replenish overdrawn groundwater using surplus water during wet years (groundwater recharge projects) throughout California. Mr. Brodsky appreciated that the 5th staff draft Delta Plan made it clear to reduce reliance on the Delta.

Tom Zuckerman, Central Delta Water Agency, stated he agreed with Mr. Fiorini and Mr. Brodsky's comments. From an agricultural point of view, the lower Delta had one of the most efficient water designs that couldn't be improved upon particularly when there were no other alternative sources of water.

Joone Lopez, Calaveras County Water District, stated that upstream agencies are doing what they can to reduce reliance but it is difficult because there is no other source of water. The upstream users are in the same plight as the in-Delta users with regard to reducing reliance. Ms. Lopez also requested clarification as to why the language from Covered Actions moved to Proposed Actions as well as how a catastrophic event would apply to upstream agencies. Ms. Lopez stated she agreed with DWR's comments about adding additional layers to water rights proceedings. She said it was troublesome to her. Ms. Lopez stated the water supply reliability element is in several different plans and she supported EBMUD's comments regarding this issue. Ms. Lopez urged for clarity and stated the Council doesn't need to have language to be bold and effective.

Ryan Bezerra, Bartkiewicz, Kronick and Shanahan, commented on WR R5, and stated he appreciated the example of Folsom Dam given by Council member Fiorini because it demonstrated why City of Folsom, City of Roseville, and San Juan Water Agencies, whose source of water is Folsom reservoir, were concerned about everything that is going on in the Delta. Mr. Bezerra stated the water rights for those agencies were established in the late 1800's and were contained in settlement contracts that were necessary in order for the Bureau of Reclamation (BOR) to construct the Folsom Dam and reservoir. Mr. Bezerra explained the water right permits and Term 14 that was inserted in the water rights permit and required the BOR to prioritize deliveries under the Central Valley Project (CVP) contracts within Sacramento, Placer and San Joaquin Counties. Mr. Bezerra stated that regardless of the water rights that have been obtained, if there is a problem in the Delta, such as the levee break that occurred on Jones Tract, the CVP would release water even with water levels below the intake in the reservoir, which he felt was a real possibility and problem.

Charles Gardiner, Delta Vision Foundation, requested clarification of the policies in WR P1. He wondered if the application of the three criteria in paragraph 1 would have to apply to determine inconsistency of a covered action. Mr. Gardiner wanted to focus on the third element of the adverse impact on the Delta and felt that having the word "and" before was an attempt to link the coequal goals. He suggested that the language used wasn't the appropriate way to create the linkage of the coequal goals. Mr. Gardiner suggested that ecosystem restoration was about restoration not about preventing adverse impacts. He suggested separating the ecosystem component from the first two criteria. He suggested using language such as "a proposed action should include net benefit to the ecosystem - not adverse impact to the ecosystem." He also suggested that dry year diversion language could be worked into the policy. Mr. Gardiner stated he would submit written language – which was received and has been posted on the Council website at <http://deltacouncil.ca.gov/public-comments/read/59>

Mark Rentz, ACWA, sought clarification regarding the implementation of WR P1. 1) Is WR P1 applicable to only covered actions? 2) Urban Water Management Plan should start by using 2010 baseline, 3) Preface language is inconsistent.

Public Comment – RR P4: Priorities for State Investments in Delta Levees

Charles Gardiner, Delta Vision Foundation, stated the Foundation convened a roundtable workshop that focused on levee prioritization and how that could be developed. Mr. Gardiner highlighted comments that were submitted by the Foundation and are posted on the Council

website at

http://deltacouncil.ca.gov/sites/default/files/documents/files/Delta_Vision_Foundation_032312.pdf

Deirdre Des Jardins, California Water Research, cited the CALFED Record of Decision regarding CALFED's Levee System Integrity Program that committed to raising all levees to PL 84-99.

Mark Brodsky, Save the California Delta Alliance, pleaded for the Council to advocate for a vegetative levee standard to the Army Corps of Engineers. Mr. Brodsky felt the language in the policy was wishy-washy and urged for clarity and stronger language.

Public Comment – WQ P 1: New Water Quality Policy

Linda Dorn, Sacramento Regional Counties Sanitation District, stated the District was supportive of alternative number 4. Ms. Dorn submitted written comments that are posted on the Council's website at

http://deltacouncil.ca.gov/sites/default/files/documents/files/SRCSD_040612.pdf

Deirdre Des Jardins, California Water Research, cited the CALFED Record of Decision regarding the Preferred Program Alternative process because of her concern with the gaps in the actions of the Water Board in establishing flow standards.

Public Comment – Land Use in the Delta

Deirdre Des Jardins, California Water Research, cited the CALFED Record of Decision where it stated acquisition of land in the Delta by "fee title" would be from willing sellers only.

14. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council and comments were provided by:

Ryan Bezerra, Bartkiewicz, Kronick and Shanahan, asked the Council if there was going to be discussion of matrix 2 (Item 9a, Attachment 2) because of serious concerns that have been expressed by upstream users on WR R5. Mr. Bezerra stated the recommendation was of concern to the upstream agencies because it added new conditions to existing water rights. Mr. Bezerra requested a discussion of WR R5 before the release of the 6th Staff Draft Delta Plan. Mr. Bezerra had concern with the term "feasible" being included in the language and asked who decided what feasible was.

Deirdre Des Jardins, California Water Research, asked what agencies would be determined to be the trustee agencies for the Delta Plan. Ms. Des Jardines stated she submitted written comments on the draft EIR for the Delta Plan that have been posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/20120202_CWRA.pdf

15. 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 – April 26, 2012.

The meeting was adjourned at 4:14 p.m.