

DELTA STEWARDSHIP COUNCIL
November 15, 2012
West Sacramento City Hall Galleria
1110 West Capitol Avenue, West Sacramento, CA 95691

MEETING SUMMARY

November 15, 2012, 9:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 9:01 a.m., November 15, 2012, by Chair Phillip Isenberg, with the Council acting as a committee until a quorum was established.

3. Chair's Report

Chair Isenberg gave a brief update on the state budget – he said the Legislative Analyst released a report yesterday on the fiscal condition of the state projecting a budget shortfall of \$1.9 billion for budget year 2013-14. Chair Isenberg reminded the Council that the State previously went through a \$64 billion shortfall, 2 or 3 years ago. The Legislative Analyst is projecting the state will be in a net positive condition in budget year 2014-15, based on the assumption that no new spending is authorized. This indicates the economic condition of California is somewhat improving.

The Democrats in the Assembly now have a 2/3 majority, temporarily giving both houses in the legislature the Democratic majority, something that hasn't occurred since the 1930's.

Throughout the Chair's Report, Chair Isenberg answered questions and provided clarification.

4. Executive Officer's Report (Information Item)

Executive Officer Christopher Knopp began by discussing the schedule for the Delta Plan and updated the Council on the results of the meeting he had with the consultant team about not being able to meet the deadline for release of the PEIR. Mr. Knopp stated we were on track for completing the plan on November 30, and the recirculated PEIR will be released and the Rulemaking package review will begin. Mr. Knopp stated staff was working on the Near-Term Actions, Implementation Committee, the Science Plan and adaptive management, all which would be heard in more detail later during the meeting.

4a. Legislative and Legal Update

There was no Legislative Update. Jessica Pearson will provide an update at the December meeting.

The Legal Update was presented by Janelle Krattiger and Tori Sundheim, the Council's legal interns. Ms. Krattiger reported on eminent domain proceedings involving DWR and field sampling for the BDCP and a water quality dispute involving new standards for the Sacramento Regional County Sanitation District.

Ms. Krattiger's update is posted on the Council website at

http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_4a_Legal_Update_DWR_Eminent_Domain_Proceedings_and_Water_Quality_Dispute.pdf

Ms. Sundheim's reported on two cases dealing with improved regional water management planning and reduced reliance on the Delta – Preserve Wild Santee vs. City of Santee and the Kern County Water Bank Authority vs. City of Bakersfield. Ms. Sundheim's update is posted on the Council website at <http://deltacouncil.ca.gov/sites/default/files/documents/files/November%2015%20Legal%20Update-%20Tori.pdf>

Following the Legal Update, Chair Isenberg asked if there were any members of the public who wished to comment.

Public Comment – Agenda Item 4:

Greg Zlotnick, State and Federal Contractors Water Agency, in response to the UC Davis report on nitrates, Mr. Zlotnick stated the Governor's Office put together a task force to look into this issue and make recommendations. The Task Force, co-chaired by David Orth, the General Manager of the Kings River Conservation District and a member of the environmental justice community, has completed its review and is getting ready to release its report, however, they will still continue to meet to look at options such as bringing in surface water, doing point-source clean-up, etc. The ACWA Groundwater Committee also has a subcommittee that is dedicated to this issue of low income communities and groundwater problems and is trying to figure out ways the "industry" can help out.

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

Roll call was taken and a quorum was established at 9:15 a.m. The following members were present: Patrick Johnston, Hank Nordhoff, Gloria Gray, Randy Fiorini, Phillip Isenberg, and Don Nottoli.

5. Adoption of the October 25, 2012 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions, suggestions or comments from the Council or public regarding the October 25, 2012 Meeting Summary – there were none.

Chair Isenberg requested the last sentence in the "Welcome and Introductions" be deleted.

Motion: (Offered by Nordhoff; seconded by Nottoli) to approve the October 25, 2012 meeting summary as amended.

The revised meeting summary is posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_5_REVISED_October_25_2012_Meeting_Summary.pdf

Vote: (4/0: Nordhoff, Fiorini, Isenberg, Nottoli) (Gray abstained from vote) (Johnston was not present at time of vote) and the motion was adopted.

The video showing this vote can be found at: <http://dsc.videossc.com/archives/111512/> Agenda Item 5. Archive Segment Number 9 of 46 at 00:46.

6. Presentation from San Francisco Estuary Institute on its Delta Historical Ecology Report (Information Item)

The "Sacramento-San Joaquin Delta Historical Ecology Investigation: Exploring Pattern and Process" is a publication prepared for the California Department of Fish and Game and the Ecosystem Restoration Program by the San Francisco Estuary Institute – Aquatic Science Center, that was released in August 2012. Alison

Whipple and Robin Grossinger, co-authors of the document, presented a PowerPoint that gave an overview of the report and is posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_6_SFEI_Presentation.pdf. The report is posted on the SFEI website at <http://www.sfei.org/DeltaHEStudy>

Throughout the presentation, Ms. Whipple and Mr. Grossinger answered Council members' questions and provided clarification. Following the presentation, Chair Isenberg asked there were any members of the public who wished to comment – there were none.

Before beginning Agenda Item 7, the Council took a five minute recess from 11:28 a.m. to 11:42 a.m.

7. Delta Plan (Water Code §85300(a))

7a. Delta Plan Update (Information Item)

Cindy Messer, Delta Plan Program Manager, lead the discussion of Agenda Item 7. Ms. Messer was joined by Chief Deputy Executive Officer Dan Ray and Lead Engineer Carl Lischeseke. Ms. Messer began the discussion of Agenda Item 7a with an update on the status and next steps of the Delta Plan. Ms. Messer stated it is anticipated the Delta Plan will be published and released for public comment, the Rulemaking Package and the recirculated PEIR will be released on November 30, 2012. The Comment periods, which will run concurrently, will end on January 14, 2013. A Rulemaking Hearing will be held on January 24, 2013. The projected date for the Council to adopt the Plan will be on April 12, 2013.

Throughout the update, Ms. Messer and Mr. Ray answered Council members' questions and provided clarification.

7b. Delta Plan Interagency Implementation Committee: Its Mission, Membership, and Organization (Water Code §85204) (Information Item)

Ms. Messer explained how the Delta Reform Act directs the Council to establish and oversee a committee of agencies responsible for implementing the Delta Plan. Ms. Messer discussed the implementation committee's function, membership, a description of the next steps to start up the implementation committee, and additional recommendations for further participation as well as monitoring progress toward achieving the coequal goals. Ms. Messer stated the process of organizing the Implementation Committee had begun and she discussed the anticipated schedule for the meetings as well as a description of potential first agenda items, such as a written agreement among the participating agencies that outlines the Committee's goals and objectives, resources and work plan and the development of a work plan summary that lists the action steps, participating agency(ies) deliverables and timeline that can be used as a working document that tie to each of the goals and objectives. It was agreed that in order for a cooperative approach, "buy-in" from the agencies would be needed.

Throughout the discussion, Ms. Messer and Mr. Ray answered Council members' questions and provided clarification. Following the discussion of Agenda Item 7b, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 7b:

Charles Gardiner, Delta Vision Foundation, stated they have been advocating for two years that this committee get started. The Foundation believes the leadership of the committee should be at the highest level, with the chair or vice chair of the Council and a co-chair being a representative from the Natural Resources Agency as they have implementation responsibility for many of the pieces of the Delta Plan. Mr. Gardiner had suggestions on how to improve performance management /measures, transparency, quarterly reporting on adaptive management, performance management approach and performance measures. The Council should make a strong statement of what is to be accomplished before worrying about the logistics of the committee.

Transparency should include quarterly reporting on all the different elements and the Council should commit to the transparency by making it a policy statement.

Following the public comment, Chair Isenberg stated since no objections from the Council was heard, staff will continue its work on the Implementation Committee.

The video showing this can be found at <http://dsc.videosc.com/archives/111512/> Agenda Item 7, Index 2 and 3. Archive Segment Number 23 of 46 at 00:39.

7c. Continued Review and Potential Action on Near-Term Strategies for Implementation of the Delta Plan (Action Plan)

Carl Lischeske briefed the Council on the next phase of Near-Term Strategies, things that can and should be done in the next five to ten years while the larger issues of water conveyance and habitat restoration are being sorted out. At the last meeting, a set of 21 proposed strategies that staff felt were responsive to the coequal goals were discussed with the Council. Today's report focused on the strategies that fall within three categories – improving the reliability of California water supplies, restoring the Delta ecosystem, and protecting Delta as a place. Three strategies under each category were described in detail by Mr. Lischeske, who said the proposed strategies best met the screen criteria, described in Attachment 1. Staff is requesting the Council provide further guidance on the proposed "short list" of strategies (Attachment 1), and the criteria used to develop it.

The Council members made suggestions for the projects in each category on the "short list", however, the Council members requested to see illustrations for the projects/strategies. Council member Nordhoff felt a timeline was very important and requested staff provide one showing when it (the project) is going to begin and when it will end, what the key activities are and when the key activities are going to be completed, who is responsible for each activities and how much each activity is going to cost as well as the economic impact when the project is finished. The Council was in agreement that the starting point should include projects that are already under way by the agencies and should also include an evaluation of the projects that are currently under way and funded and projects that are planned but not funded. They also agreed that the Delta Science Program should be involved at the front-end of the Near-Term Strategies rather than the back-end.

Throughout the discussion, Mr. Lischeske, Ms. Messer and Mr. Ray answered Council members' questions and provided clarification. Following the discussion of Agenda Item 7c, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 7c:

Jonas Minton, Planning and Conservation League, updated the Council on the activities of the Coalition to Support Delta Projects. Mr. Minton stated that rather than identify priorities, the Coalition went out and listened to people and have identified projects/priorities currently being done. Mr. Minton gave several examples of the projects that he felt were obvious and already under way. Mr. Minton discussed financing and stated there was a renewed interest in looking at financing options such as a water bond. Mr. Minton suggested the Council could take actions such as contributing resources and suggested inviting anybody that is ready with a project to come in and loan them resources to get their projects permitted, funded and built.

Charles Gardiner, Delta Vision Foundation, felt that fish protection was a critical strategy that was missing. Mr. Gardiner stated it would be helpful if staff brought forward the implementation capacity and encouraged the overall statewide objectives of improving through-Delta conveyance, diverting more water in wet years and less in dry years, invest in economic protection and development, and initiate and accelerate adaptive management. Mr. Gardiner stated the four objectives were broad but could lead to actual performance measures, both outcome metrics and implementation metrics that could then be used.

Greg Zlotnick, State and Federal Contractors Water Agency, believes the Council's role in going forward will be to make the agencies uncomfortable in terms of challenging the status quo, particularly with projects that have not yet been funded.

Following the Public Comment, the Council discussed the staff's recommendation for a motion and the Council's suggestions for the motion.

Original Motion (Offered by Gray; seconded by Nordhoff):

1. Council directs DSC staff to continue Delta coordination activities consistent with its budget and staff capacity (November – December);
2. Staff will report to the Council on how these strategies are being used to highlight the importance of specific projects and provide input to the state decision-making processes (December).

The video showing action can be found at <http://dsc.videosscc.com/archives/111512> Agenda Item 7, Index 8. Archive Segment Number 28 of 46 at 10:23.

The Council recessed for lunch at 1:15 p.m. returning at 2:00 p.m. and resumed the discussion of the proposed motion.

The video showing this can be found at <http://dsc.videosscc.com/archives/111512> Agenda Item 7, Index 9. Archive Segment Number 29 of 46 at 12:02.

Vote on Original Motion: the Original Motion was withdrawn by Ms Gray.

Substitute Motion (Offered by Isenberg; seconded by Nottoli): Staff agrees to provide to the Council for its December meeting a revised draft of the near-term action memo taking into account the Council members' comments and suggestions.

Vote on Substitute Motion: 5/0: (Nordhoff, Johnston, Gray, Isenberg, Nottoli), and the Substitute Motion was adopted.

The video showing this action can be found at <http://dsc.videosscc.com/archives/111512> Agenda Item 7, Index 9. Archive Segment Number 29 of 46 at 01:14 - 01:38.

8. Bay Delta Conservation Plan EIR Review (Water Code §85320(c)) (Information Item)

8a. Delta Stewardship Council's Approach in its BDCP EIR Review

Dan Ray presented Agenda Item 8a. Mr. Ray briefed the Council on the plan and schedule for the Council's review of the draft BDCP and its draft EIR/S, by the Delta ISB. The Council's consultant on BDCP, ARCADIS U.S. will assist in the review. The Council staff is also discussing a potential engineering review of BDCP with the Department of Water Resources and the Bureau of Reclamation. Chris Stevens discussed the "Responsible Agency" role and the potential inclusion of BDCP in the Delta Plan.

8b. Charge to Independent Science Board Regarding its Review of the BDCP EIR

Dr. Goodwin discussed the Preliminary Draft Charge to the Delta ISB for its review of the draft BDCP EIS/R. Dr. Goodwin described the charge and gave detail on the charge that specifically requests the Delta ISB address the scientific aspects of compliance with the Sacramento-San Joaquin Delta Reform Act. The charge focuses on a high level review of the scientific basis, including completeness of the scientific evaluation of the alternatives, appropriateness of the tools and models used to perform the evaluation, and the incorporation of

an adaptive management plan including appropriate monitoring and data management, analysis, reporting and decision-making processes.

Throughout the discussions of Agenda Items 8a and 8b, Mr. Ray, Mr. Stevens and Dr. Goodwin answered Council members' questions and provided clarification. Following the discussions of Agenda Item 8, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 8:

Greg Zlotnick, State and Federal Contractors Water Agency, appreciated the discussion and stated the detail was helpful. Mr. Zlotnick reminded the Council of its responsible agency role and stated unlike most responsible agencies, we were unique in that a review was not for the implementation of a project. Mr. Zlotnick also commented on BDCP's public process and financing.

Tom Zuckerman, Central Delta Water Agency, stated he was pleased with the memo and felt it was well thought out. Mr. Zuckerman stated he felt it was important to get some of these concerns framed early so they don't come as a big surprise. Mr. Zuckerman suggested a focused discussion on Governance as well as a public discussion about the need to have an independent counsel advising the Council on the issue of the adequacy of the BDCP, if it gets to an appeal. Mr. Zuckerman stated he found the report on the Delta Historical Ecology was extremely interesting.

Michael Brodsky, Save the California Delta Alliance, stated he disagreed with the comments made by the water contractors' representative. The approval of the BDCP EIR is an important step that is worthy of the Council's close and thorough attention. Mr. Brodsky requested clarification as to whether the scientific support would come from the Delta ISB or the consultant. He also appreciated the presentation on the Delta Historical Ecology Report.

Tina Cannon Leahy, Assembly Water, Parks, and Wildlife, requested clarification, if the ISB felt they needed 30 percent design in order to do an adequate review then how is it that the lead agency will have an adequate design for its EIR review? Ms. Leahy stated it seemed to her if there are potentially significant impacts identified by the ISB, after the draft environmental document is released or certified, there doesn't appear to be much recourse there for addressing them at that point. She said it seems that initial feedback from the ISB might be useful and then maybe later when it is more complicated rather than speculating. She is concerned that the Council would be in an awkward position if there is pending litigation.

Dr. Goodwin provided clarification on the reviews and purposes, the review of the draft BDCP and its draft EIR/S and the engineering review on constructability issues/questions.

Greg Zlotnick, State and Federal Contractors Water Agency, commented on the engineering review and felt that the engineering analysis was traditionally not part of the CEQA analysis. Mr. Zlotnick also commented on the alternatives analysis and encouraged the staff look into the issue.

9. Delta Science Program

Dr. Goodwin presented the Lead Scientist's Report that included a briefing on the planning and development of the Delta Science Plan. Dr. Goodwin presented a PowerPoint that has been posted on the Council website at <http://deltacouncil.ca.gov/sites/default/files/documents/files/Item%209%20Lead%20Scientist's%20Report%20Presentation.pdf> Dr. Goodwin stated the Delta Science program is hoping to recruit two fellows by the end of the year. He also reported on the State Board's workshop – the third one that focused entirely on models.

Public Comment – Agenda Item 9:

Greg Zlotnick, State and Federal Contractors Water Agency, stated he appreciated the conversation about getting arms around science. He suggested that we might consider having the same conversation at the implementation committee meeting before the plan is done. Mr. Zlotnick feels there is a need for a conversation about science and getting the policy people to focus on how to make it work structurally, understanding they have their own jurisdictions and authorities to handle, but are supposed to operate as a whole “one Delta, one science.” Mr. Zlotnick gave an example of a facilitator who conducted a workshop for the State Board and at the end of one of the sessions at the second workshop the facilitator stood up and told the board members they had just heard two diametrically opposed view points based on the same data and they would need to bridge that. Mr. Zlotnick hoped that the prioritization and asking different questions would get some answers that would be more helpful. Mr. Zlotnick stated the OCAP review is releasing a report on December 1 and cited comments received by its peer review panel.

10. Delta Independent Science Board Report

Dr. Tracy Collier, Vice Chair of the Delta Independent Science Board presented the Delta ISB report in Dr. Norgaard's absence. Dr. Collier reported on the activities at Delta ISB's October 19 meeting, November 2 teleconference, and plans for the upcoming November 29-30 meeting, where the Delta Science Plan will be discussed along with the upcoming review of the BDCP, as the Delta ISB has received its charge and will review it and will either adopt the charge or some modification of it. Dr. Collier made brief remarks on the Delta Science Conference stating there was at least one member of the Delta ISB attending every session at the conference.

Throughout the Delta ISB Report, Dr. Collier answered Council members' questions and provided clarification.

Following Dr. Collier's report, Chair Isenberg asked if there members of the public who wished to comment – there were none.

11. Public Comment

Chair Isenberg asked if there were any members of the public who wished to provide public comment.

Burt Wilson, Public Water News Service, believes that everyone agrees water is California's most precious resource. Mr. Wilson expressed concern about the use of water exported from the Delta for development of oil and gas in Kern County. Mr. Wilson urged the Council to put a strong message in the Delta Plan that Delta water cannot be used for fracking or send a strongly worded letter to the state legislature urging them to not allow Delta water for fracking and include it in the State Water Code. Lastly, Mr. Wilson talked about how science doesn't hurry as much as the politicians might want it to.

- 12. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests from Council members; and (e) confirm next meeting date – December 13, 2012, at the Ramada Inn and Suites in West Sacramento.**

The meeting adjourned for the day at 4:30 p.m.