

***DRAFT 8/2812 – SUBJECT TO CHANGE  
For Review and Adoption by DSC at September 13, 2012 Meeting***

**DELTA STEWARDSHIP COUNCIL  
August 23, 2012  
Ramada Inn and Suites  
1250 Halyard Drive, West Sacramento, California  
and  
August 24, 2012 (CLOSED SESSION)  
980 9<sup>th</sup> Street, Second Floor Conference Room, Sacramento, California  
MEETING SUMMARY**

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***Thursday, August 23, 2012, 9:00 a.m. – 4:30 p.m.***

**1. Welcome and Introductions**

The meeting was called to order at 9:02 a.m., August 23, 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: Hank Nordhoff, Patrick Johnston (arrived at 12:20 p.m.), Gloria Gray, Randy Fiorini, Phillip Isenberg, and Don Nottoli (arrived at 9:08 a.m.).

**3. Chair's Report**

Chair Isenberg announced the Legislative session will close at the end of the month and Legislative Director Curt Miller would provide information during the Legislative Update.

**4. Executive Officer's Report (Information Item)**

**4a. Legislative Update**

The Legislative Update was presented by Mr. Miller. Mr. Miller began by noting an updated version of the Delta and Water Policy Legislation report that was provided to the Council members. The revised Legislative report, posted at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20item%204a\\_Legislative\\_Update\\_revised.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20item%204a_Legislative_Update_revised.pdf), included activity on trailer bills that had no effect on the Council, however they will continue to have “watch” status; an update on AB 1019 (Buchanan), that Mr. Miller stated was signed last month, and removed the DSC from the Natural Resources Agency, where it had been moved pursuant to the Governor's Reorganization Plan; and SB 1495 (Wolk), which was amended on Monday after the distribution of meeting materials. Because of the new amendments that had to do with depths of allowable “routine” dredging in the Ports of Stockton and Sacramento, Mr. Miller recommended the Council take a “no position” on the bill. Mr. Miller answered Council members' questions and provided clarification.

#### **4b. Contracts Update**

Executive Director Joe Grindstaff noted the inclusion of the Status Report on Current Agreements. This report was for the second quarter, April –June 2012. Mr. Grindstaff answered Council members' questions and provided clarification.

#### **4c. Budget Change Proposal Update**

Mr. Grindstaff provided an update on the Budget Change Proposal (BCP) process. He Grindstaff explained the process and stated staff was doing a (BCP) for once the Delta Plan is completed, since the Council will need to modify itself for implementation, reshuffling staff and shifting funding for staff i.e., bond funds currently being used may be replaced with General Funds, etc. Mr. Grindstaff answered Council members' questions and provided clarification.

Following the Executive Officer's Report, Chair Isenberg asked if there were any members of the public who wished to comment – there were none.

### **5. Adoption of June 28-29 and July 12, 2012 Meeting Summaries (Action Item)**

#### June 28-29, 2012 Meeting Summary

Chair Isenberg asked if there were any questions, suggestions or comments from the Council or the public regarding the June 28-29, 2012 Meeting Summary. Chair Isenberg requested the following modifications: page 1, add the bill number and authors' names to the bills that were discussed - AB 1095 (Buchanan) and SB 1495 (Wolk); add web address for Council Consent Checklist on page 3; change wording on motion for Chapter 3, Item #4, on page 5, from "continue any" to "defer"; and on page 17, clarify the Final Action – Chair Isenberg suggested beginning the section with the recommendation or policy.

Chair Isenberg asked if there were any other questions or comments – there were none.

**Motion:** (Offered by Nottoli; seconded by Fiorini) to approve the June 28-29, 2012 meeting summary as amended.

**Vote:** (5/0: Nordhoff, Gray, Fiorini, Isenberg, Nottoli) (Johnston absent) and the motion was adopted.

*The video showing this vote can be found at <http://dsc.videosscc.com/archives/082312/> Agenda Item 5 Index 3. Archive Segment Number 3 of 17 at 06:24.*

The revised meeting summary was posted on the Council website at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Item\\_5\\_June\\_28\\_29\\_2012\\_Revised\\_Meeting\\_Summary.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_5_June_28_29_2012_Revised_Meeting_Summary.pdf)

## July 12, 2012 Meeting Summary

Chair Isenberg asked if there were any questions, suggestions or comments from the Council or the public regarding the July 12, 2012 Meeting Summary. Chair Isenberg requested the following modifications: page 4, check webcast for accuracy of Audrey Kelm's comment; change wording of Bob Riopel's comments regarding his statement on limits on exports and exporters; correct wording on "wrap-up" motion to read, "The motion as modified, is as follows:"; page 9, add bold title for Chapter 7 (RR P1); and on page 16, Chapter 7, Item 304, add notation that Council Member Marcus was not in attendance on the second day.

Chair Isenberg asked if there were any other questions or comments - there were none.

**Motion:** (Offered by Fiorini; seconded by Nordhoff) to approve the July 12, 2012 meeting summary as amended.

**Vote:** (5/0: Nordhoff, Gray, Fiorini, Isenberg, Nottoli) (Johnston absent) and the motion was adopted.

*The video showing this vote can be found at [http://dsc.videoss.com/archives/092312/Agenda Item 5 Index 3](http://dsc.videoss.com/archives/092312/Agenda%20Item%205%20Index%203). Archive Segment Number 3 of 17 at 13:06.*

The revised meeting summary was posted on the Council website at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Item%205 %20July 12 2012 Meeting Summary Revised.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Item%205%20July%2012%2012%20Meeting%20Summary%20Revised.pdf)

### **6. Delta Science Program (Information Item)** **6a. Lead Scientist's Report (Water Code §852280)**

Dr. Peter Goodwin presented the Lead Scientist's Report. Dr. Goodwin briefed the Council on the Fall Low Salinity Habitat (FLaSH) report and explained the low salinity zone. The Independent Review Panel that was convened to review the draft FLASH report and the draft 2012 Adaptive Management Plan is in the process of preparing its review of the reports that are due August 31, 2012. Dr. Goodwin will brief the Council members on the reports at a later meeting.

Dr. Goodwin also briefed the Council on the Delta Science Program's participation in development of three Bay-Delta Plan Workshops. The Delta Science Program is tasked with organizing invited science panels for the workshops. The participants invited to serve on the science panels, are comprised of regional and national science experts, who will address three workshop topics, Ecosystem Changes and the Low Salinity Zone; Bay-Delta Fishery Resources; and Analytical Tools for Evaluating Water Supply, Hydrodynamics and Hydropower Effects. Chair Isenberg requested, and Dr. Goodwin agreed to forward, the list of panelists to the Council for their information.

Dr. Goodwin made brief remarks on the Levee Vegetation Research Symposium, scheduled August 28-30, 2012. This symposium is the second one held in Sacramento to take stock of what has been learned over the past five years. It will bring researchers and stakeholders together to present the latest findings and discuss topics that will include: tree root architecture in levees; slurry cut off wall and ruts; slope stability and tree roots; effects of roots on soil cohesion; tree windthrow and levees; effects of burrowing mammals; forensics of California levee failures; international literature review of vegetation and levees; high-resolution 3D tree root and mammal burrow imaging; modeling/simulation for levee trees ; levee seepage analysis; engineered or design solutions; and how science is incorporated into policy decision making.

Finally, Dr. Goodwin announced the Delta Science Program Brown Bag Series on “Accommodating Climate Change into Flood Estimation Practice: Hydro-informatics and the Australian Method”, presented by Dr. James Ball of the School of Civil and Environmental Engineering, University of Technology Sydney. The Brown Bag will be held on Monday, August 27, 2012.

Throughout Dr. Goodwin’s report, he answered questions and provided the Council with clarification.

#### **Public Comment – Agenda Item 6a:**

Jason Peltier, Westlands Water District, stated he found the flow paper very interesting and it is a sideways way to enter into the discussion about flows and the Delta -- big focus on the State Water Board’s process; big focus of the biological opinions; lots of bumper stickers printed with “flow is the answer”. Mr. Peltier thought the creek study was interesting and but when you consider the ecosystem function is well understood there are few and well understood variables. He said that is a world away from the world we are working in and that it is important not to lose sight of this notion that many believe flows are the answer in the Delta and there is some sort of silver bullet there. We have been regulated and have had flow and standards dictated to the projects for decades and they have all been scientifically based. You can’t take any of those standards and link it to an ecosystem outcome.

#### **7. Approval of Nomination(s) of Independent Science Board Member(s) (Action Item)**

Dr. Goodwin reported on the results of the search to fill two vacancies on the Delta Independent Science Board. The vacancies were a result of Dr. Michael Healey’s departure on March 5, 2012 and Dr. Jeffrey Mount, who is retiring from his position as faculty at University of California, Davis, on October 31, 2012 and wished to step down from the Delta ISB at the same time.

Dr. Goodwin explained the search to fill the vacancies began on April 24, 2012 and continued through June 4, 2012, with postings on the DSC website as well as distribution of the announcement to the American Society of Environmental Engineering Professors and the American Society of Civil Engineers. Nominations and applications

were also solicited from individuals by the Council and Delta Science Program staff. As a result of these efforts, Dr. Goodwin nominated two individuals, Dr. Harindra (Joseph) Fernando, and Dr. Jay Lund

[http://deltacouncil.ca.gov/sites/default/files/documents/files/Item\\_7\\_ISB\\_Nominees.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_7_ISB_Nominees.pdf).

Dr. Fernando, University of Notre Dame, Indiana, is an engineer with expertise in hydrodynamics, risk climate change, and modeling. Dr. Fernando would replace Dr. Healey effective upon Council approval of the appointment.

Dr. Lund, University of California, Davis, is an engineer with expertise in water resources. His appointment, if approved by the Council, would be effective November 1, 2012 and would replace Dr. Mount.

Throughout the discussion of the Delta ISB nominations, Dr. Goodwin answered Council members' questions and provided clarification.

Chair Isenberg asked if there were any members of the public who wished to address the Council on Item 7 – and as there were none.

**Motion:** (Offered by Nordhoff; seconded by Gray) to accept Dr. Goodwin's nominations of Dr. Fernando and Dr. Lund for appointment to the Delta Independent Science Board.

**Vote:** (5/0: Nordhoff, Gray, Fiorini, Isenberg, Nottoli) (Johnston absent), and the motion was adopted.

*The video showing this vote can be found at <http://dsc.videosscc.com/archives/092312/> Agenda Item 7. Archive Segment Number 6 of 17 at 09:11.*

## **8. Recommendations Regarding Near-Term Actions (Action Item)**

Mr. Grindstaff and staff members Cindy Messer and Carl Lischeske presented Agenda Item 8. Mr. Grindstaff stated that decisions in the near term about funding for the next fiscal year to begin to support a number of actions and a process to look at near-term actions.

Ms. Messer stated this was the first of a series staff reports, presentations and discussions with the Council, Delta agencies and stakeholders and will continue through the fall. Ms. Messer stated it was staff's objective to develop a proposed framework for evaluating, prioritizing, coordinating and funding near-term actions that the DSC will either undertake directly, or encourage other state or local agencies to begin implementation of the Delta Plan. Ms. Messer described the objectives and guiding principles to guide the selection of the near term actions.

Mr. Lischeske described the principles and categories for selecting near-term actions and also discussed the fiscal information. Mr. Lischeske described the actions that staff believes should be done in the near term and stated they were separated by internal – those Council staff can work on and external, those that other agencies can work on.

Next, Mr. Grindstaff invited Jonas Minton, Planning and Conservation League, to discuss the process he and Mr. Peltier are coordinating, a Coalition to support Delta Projects. The Delta Projects Coalition provided a listing of 52 recommended projects. The Coalition's recommended projects are posted on the Council website at [http://deltacouncil.ca.gov/sites/default/files/documents/files/Item\\_8\\_Delta\\_Projects\\_Coalition\\_Master\\_Proposal\\_List.pdf](http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_8_Delta_Projects_Coalition_Master_Proposal_List.pdf). Members of the Delta Projects Coalition included Mr. Minton; Susan Sherry, Center for Collaborative Policy, California State University, Sacramento; Tom Zuckerman, Central Delta Water Agency; Doug Brown, Delta Counties Coalition; and Marguerite Naillon for Greg Gartrell, Contra Costa Water District; who each gave their perspective on the group and the near-term projects and process. The criteria for the projects on the listing was that they didn't pre-judge BDCP, they could be done in the near term (5 years), and they were projects that the Coalition felt people could support. Mr. Minton felt the recommended projects could be broadly supported but hadn't been prioritized since the prioritization was dependent on funds. Funding options for the projects were also discussed.

Throughout the discussions, Mr. Grindstaff, Ms. Messer, Mr. Lischeske, and the members of the Delta Projects Coalition answered questions and provided clarification for the Council members.

#### **Public Comment – Agenda Item 8:**

Charles Gardiner, Delta Vision Foundation, thanked Jonas Minton for acknowledging that the Foundation was a catalyst for this process and had submitted a proposal to integrate a number of existing proposals and create a common theme around though-Delta conveyance that would integrate the coequal goals of increasing water supply reliability and improving ecosystem, while protecting Delta as a Place. The proposal was well received and a smaller workgroup was formed to identify the priorities. Mr. Gardiner stated that the group was starting to think of storage issues but were not as far along as on the near-term actions. Mr. Gardiner stated there was a high degree of reluctance to prioritize projects by agencies, and urged the Council to think creatively on governance and the funding and approval processes.

Mark Rentz, ACWA and the Ag-Urban Coalition, stated the Ag-Urban Coalition will be meeting to begin discussions as they transition from reviewing the Delta Plan drafts to the implementation of the plan, including near-term actions. Mr. Rentz requested that staff consider how to have an on-going dialog with the stakeholders as there is much potential for working with them and encouraged the Council to look at the work brought forward by the stakeholder coalitions. Mr. Rentz also felt that prioritization could be done based on demonstrations of early successes.

**Motion:** (Offered by Nottoli; seconded by Gray) to (1) direct staff to continue its work, consulting with agencies and stakeholders, on the development of near-term action proposals; (2) reflect the discussions and staff presentation, including the discussion and presentation offered by the Delta Projects Coalition, and reflecting the comments of the Council, limiting the proposal to a framework or outline as opposed to immediately

starting to pick projects off the list, including development of an alternative outline of approaches; and (3) return to the Council at the second meeting in September with a rough draft proposal with the anticipation that staff would have a draft proposal available at the October meeting and finalized by the November meeting in order to allow the Council to debate, discuss and adopt the proposal.

**Vote:** (6/0: Nordhoff, Johnston, Gray, Fiorini, Isenberg, Nottoli), and the motion was adopted.

*The video showing this vote can be found at [http://dsc.videoss.com/archives/092312/Agenda Item 8, Index 5. Archive Segment Number 11 of 17 at 20:24](http://dsc.videoss.com/archives/092312/Agenda%20Item%208,%20Index%205.%20Archive%20Segment%20Number%2011%20of%2017%20at%2020:24).*

Following the discussion of Agenda Item 8, the Council recessed for lunch at 12:30 p.m. and resumed the meeting at 1:30 p.m.

## **9. Bay Delta Conservation Plan Update (Water Code §85086(c)) (Information Item)**

Chief Counsel Chris Stevens began the discussion of Agenda Item 9 by providing a refresher on why BDCP was relevant to the Delta Plan. Mr. Stevens was joined by intern Tori Sundheim, who showed a PowerPoint that laid out the Council's role as related to BDCP. Next, Tara Mueller, Deputy Attorney General, explained NCCP, HCP, CEQA and specifics of Water Code 85320 and the basic legal foundation for BDCP. Ms. Mueller and Mr. Stevens also discussed the memo that was included in the meeting materials regarding the Council's role as a responsible agency and Mr. Stevens also discussed the Council's possible appellate role. Following Ms. Mueller's presentation, Karla Nemeth, of the Natural Resources Agency reported on BDCP activities to date including governance and the vision for implementation.

Throughout the discussion of BDCP, Mr. Stevens, Ms. Nemeth, and Ms. Mueller answered Council members' questions and provided clarification.

### **Public Comment – Agenda Item 9:**

Tom Zuckerman, Central Delta Water Agency, commented on the governance issues and felt the issues raised were legitimate. Mr. Zuckerman suggested the description of the legal requirements were complicated and convoluted. He noted that the State Department of Justice represents state agencies, including both the DSC and Department of Fish and Game. He suggested the DSC consider retaining outside counsel to avoid any perception of conflict of interest on hearing appeals. He urged the Council to look beyond the nuts and bolts of the Delta Plan, looking closely at governance and financial assurances.

Mark Rentz, ACWA, urged the Council to clearly articulate in the DSC appellate process that the appellant has the burden of proof to demonstrate, by a preponderance of evidence, DFG made wrong decision.

## 10. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council on issues not on the agenda. There were none.

## 11. 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

Chair Isenberg announced that the second day of the Council meeting was a Closed Session, scheduled from 8-3:30, at 980 Ninth Street, 2<sup>nd</sup> Floor Conference Rooms, Sacramento, California.

The meeting adjourned for the day at 3:26 p.m.

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### ***Day 2: Friday, August 24, 2012, 8:00 a.m. – 3:30 p.m.***

## 12. Call to Order

The Delta Stewardship Council meeting was called to order at 8:05 a.m., on Friday, August 24, 2012, with Chair Phil Isenberg presiding.

## 13. Roll Call – Establish a Quorum (Water Code §85219.5)

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

Immediately after opening the meeting, a motion was offered by Chair Phil Isenberg and seconded by Vice Chair Fiorini to recess the Open Session and begin the Closed Session of the Delta Stewardship Council. Without Council objection the motion was adopted and the Closed Session was convened.

## 14. Closed Session (Not open to the public) – Personnel (Government Code §11126(a)(1)) (Action Item) Update on Personnel Matter: Executive Officer Recruitment

The Closed Session of the Delta Stewardship Council convened at 8:06 a.m., with Chair Phil Isenberg presiding.

The Closed Session adjourned at 1:20 p.m. and the Open Session of the Delta Stewardship Council immediately reconvened at 1:20 a.m., with no announcements made.

**The meeting was adjourned at 1:21 p.m.**