

DRAFT 5/27/16 - SUBJECT TO CHANGE
For Review and Adoption by the Council at the June 23, 2016 Meeting

Thursday, May 26, 2016
DELTA STEWARDSHIP COUNCIL
Park Tower Plaza – 2nd Floor Conference Center
980 Ninth Street
Sacramento, CA 95814

MEETING SUMMARY

1. Welcome and Introductions

The meeting was called to order at 9:02 a.m. by Chair Randy Fiorini.

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

Roll call was taken and a quorum established at 9:03 a.m. The following members were present: Patrick Johnston, Frank Damrell, Randy Fiorini, Aja Brown, and Mary Piepho. The following member was absent: Susan Tatayon. After roll call Chair Fiorini introduced the newly appointed Council member, Ken Weinberg, and administered the Oath of Office. Chair Fiorini also announced he was honored to be reappointed to the Council for another four years. Following the introduction of Council member Weinberg, the Council recessed at 9:05 a.m. for the Closed Executive Session. Member Tatayon attended Closed Executive Session via telephone.

3. Closed Executive Session – (Not open to the public.) (Action Item)

The Council may discuss litigation matters pursuant to Government Code §11126 (e)(2)(a), (e)(2)(B)(i), and/or (e)(2)(C)(i), including: (a) Delta Stewardship Council Cases, Coordinated Proceeding JCCP No. 4758, and (b) Bracewell Engineering Inc., et al., v. Delta Stewardship Council, et al., Sacramento County Superior Ct. No. 34-2015-80002178.

The Closed Executive Session convened at 9:11 a.m. and adjourned at 11:00 a.m., with Chair Randy Fiorini presiding.

4. Reconvene Open Session

Upon adjournment of the Closed Executive Session, the Delta Stewardship Council (Council) reconvened in Open Session at 11:05 a.m.

5. Adoption of the April 28, 2016, Meeting Summary (Action Item)

Chair Fiorini asked if there were any questions, suggestions, or comments from the Council or public regarding the April 28, 2016 meeting summary; there were none.

Motion: (Offered by Piepho, seconded by Johnston) to approve the April 28, 2016, meeting summary.

Vote: (6/0: Johnston, Damrell, Brown, Weinberg, Fiorini, Piepho) and the motion was adopted.

The video showing this motion and vote can be found on the linked agenda at <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2016-05-26&player=jwplayer> at 06:26.

6. Chair's Report

Chair Fiorini provided opening remarks for the meeting. He discussed Judge Kenny's recent ruling regarding lawsuits challenging the integrity of the Delta Plan and said the decision endorsed the legally enforceable structure of the 2013 Delta Plan and held that the Plan was based on best available science. Chair Fiorini noted that, as the Council and staff continue to study the nuances of the complex decision, they also continue efforts to develop high priority Delta Plan amendments regarding Delta conveyance, storage, and the operations of both to achieve the coequal goals.

Chair Fiorini reported that the previous month was busy with presentations and the May 9 Delta Plan Interagency Implementation Committee (DPIIC) meeting. Chair Fiorini said he was privileged to provide the keynote address at the Association of California Water Agencies spring conference's Friday morning breakfast and took the opportunity to review how the Delta has been altered for many well-intentioned reasons and described the many challenges we are now faced with due to some of the unintended consequences of those actions. He described the unique role of the Council and provided a summary of the guidance provided by the Delta Plan and the Delta Science Plan. Chair Fiorini said he concluded his remarks to ACWA by touching on reasons for optimism about the future of the Delta and the coequal goals.

Jessica Law, DPIIC coordinator, provided brief comments on the recent DPIIC meeting. She said the meeting focused on adaptive management including EcoRestore, the Yolo Bypass and Cache Slough partnership, the High-Impact Science Actions, and a preview of the Science Enterprise Workshop that is being scheduled for Fall 2016. The webcast for the DPIIC meeting is posted on the Council website at <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2016-05-09&player=jwplayer>.

Chair Fiorini asked if there were any questions from the Council and, as there were none, he concluded his report.

7. Executive Officer's Report

Executive Officer Jessica Pearson began her report with current events. Ms. Pearson announced that the State Water Resources Control Board adopted a statewide water conservation approach last week that replaces the emergency percentage reduction-based conservation standard with a new localized "stress test" approach that will require

urban water suppliers to ensure at least a three-year water supply to their customers under drought conditions. If this can't be documented, customers must conserve the difference.

Ms. Pearson noted that 70 percent of the state remains in "severe", "extreme" or "exceptional" drought and the Sierra snowpack is still less than normal for this time of year.

Ms. Pearson briefed the Council on the San Francisco Estuary Partnership's 2016 Comprehensive Conservation and Management Plan. The Partnership is one of many national estuary programs, established under the Clean Water Act to promote collaboration across federal, State, local agencies, and non-profit organizations to protect and restore estuaries across the United States. The management plan is a collaborative agreement about what should be done to protect and restore the San Francisco estuary including the Bay and Delta. Council staff participated on the steering committee for the update, and Ms. Pearson noted that the list of priority tasks in the management plan now includes a better representation of Delta specific actions as described in the Delta Plan as well as actions that need to be coordinated across the entire estuary.

On May 5, the State and Federal Contractors Water Agency certified that its Tule Red Tidal Restoration Project in the Suisun Marsh is consistent with the Delta Plan. The proposed project would restore approximately 420 acres of existing managed brackish wetlands to tidal habitat. The public has until June 4 to review the certification on our website at

http://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=aeb6e94c-5cae-49a3-8cb1-3761c930b150.

Ms. Pearson brought to the Council's attention a comment letter sent by staff on May 6 to Sami Nall, of the Central Valley Flood Planning Office, Department of Water Resources, regarding the Draft Sacramento River Basin-Wide Feasibility Study. The letter is posted on the Council website at

http://www.deltacouncil.ca.gov/sites/default/files/2016/05/Sac_BWFS_DSCcomments_05062016%20%28002%29.pdf.

Ms. Pearson announced that Lead Scientist Cliff Dahm received the 2016 Award of Excellence from the Society for Freshwater Science at its recent meeting in Sacramento. The award was given for outstanding contributions to benthic science, which is the study of the ecological region at the lowest level of a body of water. Ms. Pearson said the Council would hear more about Dr. Dahm's address to the Society during the Lead Scientist's report but she wanted to publically appreciate Dr. Dahm for his outstanding academic career and said that we are very fortunate to have him at the Council.

7a. Legislative Update

Ms. Pearson invited Ryan Stanbra to provide the Legislative Update. Mr. Stanbra's update is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-meeting-agenda-item-7a-legislative-update>.

Included in Mr. Stanbra's update is the Bill Tracking Report and other bills of interest, posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-meeting-agenda-item-7a-legislative-report>.

At the conclusion of Mr. Stanbra's update, Chair Fiorini asked if there were any questions from the Council or members of the public who wished to comment; there were none.

7b. Legal Update

Bethany Pane, senior staff counsel, presented the Legal Update. Ms. Pane introduced Caroline Soto, a legal intern who returned to the Council after passing the bar, and Rebecca Mills, the new summer intern from the McGeorge School of Law. Ms. Soto and Ms. Mills provided the Council with updates on two cases the Council has been following. The Legal Update is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-meeting-agenda-item-7b-legal-update>.

At the conclusion of the Legal Update, Chair Fiorini asked if there were any questions from the Council or members of the public who wished to comment; there were none.

Ms. Pearson concluded by previewing the day's agenda. Following the Executive Officer's Report, Chair Fiorini asked if there were any members of the public who wished to comment; there were none.

8. Lead Scientist's Report

Dr. Dahm presented the Lead Scientist's Report, covering a number of collaborative and science communication activities. The staff report for Agenda Item 8 is posted on the Council's website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-agenda-item-8-lead-scientists-report>.

Dr. Dahm updated the Council on the California WaterFix Aquatic Science Peer Review Report. At the request of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife, select staff from the Council's Delta Science Program convened an independent scientific peer review of analytical approaches for the California Water Fix joint Biological Opinion and the Incidental Take Permit analysis. The review was completed and the report, review materials, background information, and presentations are posted at http://www.westcoast.fisheries.noaa.gov/central_valley/WaterFix/index.html.

Dr. Dahm reported today was the last day of the Society for Freshwater Science's annual meeting, which began on May 21, in Sacramento. It was the 64th meeting of the Society and the first meeting ever to be held in California. Dr. Dahm said the annual meeting was well attended with a record number of posters and papers. The Society has grown to be international with a quarter of its members from outside of North America. This year's conference on freshwater sciences focused on streams and rivers. Four plenary sessions were provided with three of the presenters from California.

Details about the Society for Freshwater Science's 2016 Annual meeting may be viewed at <http://sfsannualmeeting.org/>. Executive Officer Pearson acknowledged an award received by the Council's Independent Science Board member, Vince Resh for his accomplishments.

Dr. Dahm said the Council hosted a three-day technical workshop titled, "Revisiting the 2003 Mercury Strategy for the Bay-Delta Ecosystem", in January. A follow-up synthesis workshop will be held June 3, 2016.

Dr. Dahm provided brief comments on a Brown Bag Seminar, *Science in Support of Everglades Restoration*, presented by Dr. Nick Aumen on May 24. Dr. Aumen is the regional Science Advisor for U.S. Geological Survey, South Florida.

Dr. Dahm discussed a journal article about the effects of hydropower operations on aquatic insects. *Flow Management for Hydropower Extirpates Aquatic Insects, Undermining River Food Webs* by Theodore A. Kennedy, Jeffrey D. Muehlbauer, Charles B. Yackulic, David A. Lytle, Scott W. Miller, Kimberly L. Dibble, Eric W. Kortenhoeven, Anya N. Metcalfe, and Colden V. Baxter demonstrates the importance of the rate of change in flow on food webs downstream of hydropower dams. Next, Dr. Dahm announced that the March issue of the SFEWS Journal was now available and can be viewed at http://escholarship.org/uc/jmie_sfews.

Dr. Dahm said a poster from the Science Conference was displayed outside the meeting room and encouraged everyone to take a moment to look at it. After Dr. Dahm concluded the Lead Scientist's Report, he introduced Lauren Yamane and invited her to discuss the *By the Numbers* report. *By the Numbers* is posted on the Council website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-agenda-item-8-attachment-1-numbers>.

Member Weinberg said he found the Lead Scientist's Report interesting and was curious about the journal article on hydropower and the aquatic insects, specifically if sediment had an adverse effect compared to hydropeaking. Dr. Dahm explained that it didn't seem to; it is the drying of the eggs that is key. Dr. Dahm explained that there may be other sources of power that could be used during critical times hydropeaking is not used, such as solar.

Chair Fiorini asked if there were any members of the public who wished to comment on the item; there were none.

9. Approval for Executive Officer to Enter into a Contract for Services to Assist the Council in Amending the Delta Plan (Action Item)

Executive Officer Jessica Pearson introduced Agenda Item 9 and invited Dan Ray, chief deputy executive officer, Cassandra Enos-Nobriga, deputy executive officer for performance, planning, and technology, and staff member Lita Brydie to provide a briefing on the staff recommendation for the Council to authorize the Executive Officer to execute a \$2.450 million contract with MWH to assist the Council in the development of multiple Delta Plan amendments. The Executive Officer has delegated authority up to

\$500,000 to enter into contracts and interagency agreements on the Council's behalf. Because this contract would exceed that amount, it required Council authorization. The staff report for this item is posted on the Council website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-agenda-item-9-approval-executive-officer-enter-contract>.

Member Piepho asked if a scope of work and milestones had been developed. Mr. Ray explained that the Request for Consulting Services process was used which includes a scope of work and asks prospective consultants to explain their skills as they pertain to the scope. Mr. Ray also noted that detailed scopes of works and milestones will be submitted on the various task orders as soon as the contract is executed. Member Piepho referred staff to page 2, paragraph 3 of the staff report that discusses revisions expected in the recommendations, regulatory policies, and performance measures and said she hoped the water quality policies would be examined as part of the information seeking and analysis. Mr. Ray explained that it could be done when reviewing the ecosystem restoration amendment or while sorting through the performance measures to ensure water quality has been adequately addressed.

Member Weinberg recused himself from the vote stating he has a subcontractor relationship with MWH on an unrelated project in San Diego.

Chair Fiorini asked if there were any members of the public who wished to comment on the item.

Public Comment – Agenda Item 9

Osha Meserve, Local Agencies of the North Delta, commented on the court ruling that has given guidance on the need to develop conveyance policies irrespective of the status of BDCP/WaterFix and expressed her concern that a former DWR employee, Ms. Enos, was now managing the Council's process to update its plans and policies, including those related to conveyance. Ms. Meserve said the appointment signaled to her and possibly other major stakeholders, a potential conflict of interest.

Motion: (offered by Piepho; seconded by Brown) to Authorize the Executive Officer to execute a \$2.450 million contract with MWH to assist the Council in development of multiple Delta Plan amendments.

Vote: (4/0: Damrell, Fiorini, Brown, Piepho in support, Weinberg recused) and the motion was adopted.

The video showing this motion and vote can be found on the linked agenda at <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2016-05-26&player=jwplayer> at 1:17:45.

The Council recessed for lunch at 12:15 and reconvened the meeting at 1:10.

10. Discussion Regarding Risks to Delta Assets of Significant State Interest and Update on Delta Levees Investment Strategy (DLIS)

Dustin Jones, supervising engineer, provided opening remarks. For today's briefing, Mr. Jones was joined by consultants Larry Roth and Charles Gardiner of Arcadis who presented an overview of islands and tracts within the Delta and Suisun Marsh where risks to State interests due to potential levee failures have been identified. The staff report for Agenda Item 10 is posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-agenda-item-10-dlis-update>. The attachments to the staff report, Annual Probability of Flooding and Risks to State Interests are posted on the Council website at <http://www.deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-agenda-item-10-dlis-update-attachments-1-and-2>. Before demonstrating the tool, Mr. Jones announced two public workshops planned for June 6 in Brentwood and June 9 in West Sacramento. The focus of the workshops is to work with local stakeholders and technical experts within the region, walk through the presentation and receive feedback. Information on the workshops can be viewed on the Council website at <http://deltacouncil.ca.gov/event-detail/13365>.

Mr. Roth began the presentation by discussing considerations for the DLIS development using a risk informed analysis of the prioritization of levee investments. This can help inform the Council's consideration of which levees are most important to protecting State interests and may warrant investment by the State for levee improvements to reduce risk. Mr. Gardiner discussed what risk meant and where the greatest risks had been identified for life, property, water supply, and ecosystem function in non-tidal habitat, and Delta as a place.

The video showing the demonstration of the tool can be found on the linked agenda at the following timestamp <http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2016-05-26&player=jwplayer> at 1:21:00 through 1:50:11.

Member Piepho questioned Mr. Gardiner about the slide showing annual probability of flooding leveed islands (<http://www.cal-span.org/cgi-bin/archive.php?owner=DSC&date=2016-05-26&player=jwplayer> at 1:31:34), specifically, are both the hydrology and earthquake risk taken into consideration simultaneously or are two different scenarios used. Mr. Roth clarified that it is based on the scenarios happening simultaneously.

Mr. Roth gave an explanation of the levee fragility curve and the calculation used for the expected annual fatalities and expected annual damage. Mr. Gardiner concluded the demonstration of the tool by describing the next steps.

Member Brown noted the map indicating the annual probability of flooding leveed islands, asking if the values (percentages) listed in the key represent the mean of the sample size and if so were they closer to the average or median. Mr. Gardiner demonstrated with the tool and said the flood probability is calculated for each island

based on the levee conditions and listed on the right is the name of the island and the percentage of probability for flooding. Executive Officer Pearson clarified that all the calculations are based on the weakest link in the levees. The presentation of the tool was concluded with next steps that will include how risks for each island are combined in a way that will help to identify future levee investments.

Member Weinberg requested more details about some of the background information, including, how many years back the data go and is it the baseline condition that would be used moving forward. Mr. Roth said he could not answer how far back staff went but the information was in the background data and he would forward that information to Member Weinberg. Mr. Roth said, in general, the hydrologic regime is very complex and in the Delta, a discharge occurrence is being used as opposed to a stage occurrence with information obtained from DWR. Mr. Roth said that the last levee failure was in 2004 and he attributes this to the attention given to them by the subventions and special projects program. Mr. Jones noted that where State money was spent there was less likelihood of levee failure but that the conditions of all the levees were unique. Finally, Member Weinberg asked if EcoResore as mitigation for WaterFix was taken into consideration. Mr. Gardiner said the habitat looks at the high value risk and conservation easements as well as a data set that looks at future potential and what is the opportunity based on information included in the Delta Plan. This will be available as a future step where we look at opportunities for future investment that have potential for habitat, so a levee is not armored where there is habitat potential for aquatic or riparian habitat.

Member Piepho asked when a report would be received on the public workshops. Mr. Jones said the final methodology report is being finalized and he expects it to be completed in July or August and the risk analysis will be finalized toward the end of the year. Mr. Gardiner said one of the purposes of the outreach is to see how people react to the risk analysis. Member Piepho said it would be valuable to meet with the Delta Counties Coalition and encouraged staff to do so. Member Piepho also asked if the comment letter was received from Nicole Suard and asked that the Council be kept informed of how her letter is addressed.

In regards to Ms. Suard's letter, Member Brown asked if there was a process in place to manually check data. Mr. Jones responded that staff welcomes updates in information. Mr. Ray said that the data being used has been vetted by the reclamation districts and some technical changes that affect the analysis have already been incorporated. Lastly, Member Brown wanted to make sure the most current real estate values were used as well as current utility data. Mr. Roth clarified that loss relates to the physical loss or improvements faced by the owner that could be damaged by flood (house, belongings, etc.) but it is not the value of the land or parcel itself. It is presumed that once floodwaters recede, the land is still there and can be built on again and the actual loss is the physical, structures, vehicles, crops, etc.

Chair Fiorini asked Mr. Roth to describe the difference between the values associated with a parcel of improvements from the county assessor's roles versus the number of buildings that may exist on a particular parcel. Chair Fiorini said he recalled we are using county assessor maps that have more than one building so the number of

buildings on a particular island may not line up with the number of parcels with buildings. Mr. Roth said he thought Chair Fiorini described the issues well and said in addition, it's not just the physical values of the structures themselves and that risk is related to the depth of flooding. FEMA and the U.S. Army Corps of Engineers provide the information to judge the percentage from zero to total destruction depending on flood waters at that particular parcel. Mr. Roth explained that there may be limitations to exact valuation due to the level of detail in flood depth variation.

Member Brown asked if two different calculations would be used for valuation of commercial versus residential. Mr. Roth said he did not have the information at hand but would get it and respond to Member Brown.

In regards to the data about habitat and water supply, Member Weinberg asked if the risk assessment was just the frequency of flooding. Mr. Roth said yes and that the hope was to monetize the disruption to water supply but it is a difficult calculation to make.

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

Public Comment – Agenda Item 10

Ms. Suard, Snug Harbor Resorts, submitted a public comment letter that is posted on the Council website at <http://deltacouncil.ca.gov/docs/delta-stewardship-council-may-26-2016-meeting-agenda-item-10-public-comment-nicole-suard-snug>.

Erik Ringelberg, The Freshwater Trust and Local Agencies of the North Delta (LAND), thanked Mr. Jones and Mr. Roth for pointing out the success of the Special Projects Program and the flood fighting efforts that have reduced actual rate of levee failures from the expected rate of levee failures, a success built on several years of collaboration between DWR and the reclamation districts. Mr. Ringelberg said it was also good to see the initial work products and was looking forward to seeing the synthesis products from the team. Despite LAND's concerns about some of the methodological approaches, they were glad to see some of their comments accepted and implemented. Mr. Ringelberg said the Freshwater Trust has a variety of analytical and modeling tools that he thinks will compliment this process moving forward, in particular for the habitat and he is looking forward to the upcoming workgroups.

11. Public Comment

Chair Fiorini asked if there were any members of the public who wished to make public comment; there were none.

12. 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 – June 23, 2016.

The meeting adjourned at 2:10 p.m.