

***DRAFT 4/26/18 – SUBJECT TO CHANGE
For Review and Adoption by the Council at the May 24, 2018 Meeting***

**DELTA STEWARDSHIP COUNCIL
Thursday April 26, 2018
Department of General Services
Ziggurat Building, Auditorium*
707 3rd Street
West Sacramento, CA 95605**

MEETING SUMMARY

1. Welcome and Introductions

The meeting was called to order at 9:05 a.m., Apr. 26, 2018, by Chair Randy Fiorini.

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

Roll call was taken and a quorum was established. The following members were present: Ken Weinberg, Frank Damrell, Susan Tatayon, Randy Fiorini, Maria Mehranian, and Skip Thomson.

Chair Fiorini provided a welcome and brief summary of works for new Council member Maria Mehranian.

Council member Mike Gatto arrived.

3. Delta Plan Amendments: Delta Levees Investment Strategy, Conveyance, Storage Systems, and the Operation of Both; and Performance Measures; (Water Code §85300(a)) (Action Item)

Deputy Executive Officer Jeff Henderson introduced the topic and panel: Erin Mullin, Ryan Stanbra, Andrew Tauriainen, and Martina Koller from the Council. Kari Shively from Stantec and Ellen Garber from Shute, Mihaly and Weinberger, LLP.

Mr. Henderson and the panel provided an overview of the Delta Plan Amendments Final Programmatic Impact Report (Final PEIR), including a summary of revisions to Delta Plan Chapters 7 and 3; Appendix E; the performance measures datasheets related to these chapters; Findings and Statement of Overriding Considerations (Findings); and Mitigation and Monitoring Reporting Program (MMRP). The presentation also covered the public comment period and response to comments, as well as the California Environmental Quality Act (CEQA) process leading up to the Final PEIR certification and Resolution 2018-1 (Resolution).

Mr. Henderson requested the Council adopt Staff Recommendations to: 1) Certify the Final PEIR including Findings and MMRP; 2) adopt the Delta Plan Amendments

included in the resolution and Chapter 7 Delta Plan Policy RR P1 as a regulation incorporating the DLIS Prioritization; 3) direct Council staff to initiate rulemaking to revise the regulation in 23 C.C.R section 5012, 5001, and 5002 (b); and 4) request that the Council grant the Executive Officer authority to complete any non-substantive changes and discretion to make changes required by the Office of Administrative Law.

The staff report for this item can be found on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-staff>. The presentation can be found on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-7>.

The attachments to the Resolution can be found at the following links:

Attachment 1, Resolution; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments>

Resolution Attachment 1, Findings; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-1>

Resolution Attachment 2, MMRP; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-0>

Resolution Attachment 3, Revised Chapter 7; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-2>

Resolution Attachment 4, Revised Chapter 3; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-3>

Resolution Attachment 5, Revised Appendix E; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-4>

Resolution Attachment 6, Revised PM Datasheets;
<http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-5>

Attachment 2, Chapters of the Final PEIR; <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-3-delta-plan-amendments-6>

Chair Fiorini asked if there were any Council members who wished to comment. Member Thompson asked the Council to delay the decision for 60 days or at least 30 days to better understand the PEIR. Member Thompson stated that the document was over 2,300 pages and members were given only six days to review all its contents.

Member Weinberg asked outside counsel to describe the requirements for CEQA in relation to how long it must be out to the public before lead agencies can take action.

Ms. Garber stated there are no legal length-of-review requirements for the Final PEIR before the CEQA lead agency takes action, those have to do with the agency's own noticing requirements. The only requirement is that public agencies that commented on

the PEIR receive responses to their comments at least ten days in advance of the certification.

Member Mehranian asked if Mr. Henderson could explain the kind of public outreach that was done. Mr. Henderson stated a number of public outreach efforts in 2016 and 2017 were conducted for the individual amendments themselves. The amendments were also brought forward as part of the Council's meetings throughout 2017 and 2018. A scoping meeting for the environmental impact report was held in 2017 shortly after the release of the notice of preparation, and a public hearing in December 2017 to receive public comments on the draft PEIR at that time.

Motion: (Offered by Thomson, second by Gatto) to delay the vote on the amendment for 60 days.

Vote: (2/5: Weinberg, Damrell, Gatto, Tatayon, Fiorini, Mehranian, Thomson) and the motion failed.

The video showing this motion and vote can be found on the linked agenda: <http://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2018-04-26>, 00:44:05.

Chair Fiorini asked if there were any members of the public who wished to speak. There were six members of the public who commented.

Jennifer Pierre, State Water Contractors, expressed her approval of the final amendments and said that many of the Contractors' concerns were addressed throughout the process. Ms. Pierre continued by stating there were a few remaining concerns to either address in this amendment, or keep in mind for the future amendments: 1) Measuring reliance at the export facilities is an issue because water exported may not originate at the Delta; 2) Ms. Pierre said that the reference to the *Fall X2* water quality and salinity project is out of place and is the most highly contested scientific based regulation in the Delta; and 3) in reference to the DLIS amendment, she said the Contractors think this should be a recommendation instead of a regulatory policy.

Bob Wright, Friends of the River, said he had transmitted a comment letter the day prior opposing adoption of the amendment and urging rejection of the Final PEIR. Mr. Wright said that the statement that the recommendations do not promote specific projects, such as the California WaterFix, is divorced from reality. Furthermore, he said removing water before it reaches the Delta will worsen the water situation in the Delta. In his closing remarks Mr. Wright asked that the Council not certify the Final PEIR.

Osha Meserve, Local Agencies of the North Delta, stated her ongoing concerns about the environmental review process and the content of amendments. She said there is not enough time to process the information of the amendments, noting that making the public wait after a long closed session to address the remaining items on the agenda was not appropriate for the public, and that the outreach efforts were not conducted in a way the public could understand what the Council was doing or why. Ms. Meserve

urged that the Council adopt the risk reduction measures as a recommendation, not regulation. In regards to the conveyance issues, Ms. Meserve said she agreed with Mr. Wright that the Council should not promote removing water from the north Delta. In her closing remarks Ms. Meserve asked that the Council not certify the Final PEIR.

Alf Brandt, counsel for the Speaker of the State Assembly, said he was there as a former water consultant to the Assembly Water Parks and Wildlife Committee (2005-2010) to give background of the Delta Reform Act requirement for levee investment prioritization. Mr. Brandt urged the adoption of the DLIS as a regulation.

Gilbert Cosio, MBK Engineers, stated concerns about the Council's data being outdated and not addressing hydrodynamics. He described his involvement in past legislation and suggested DLIS as a recommendation for implementation flexibility purposes. Mr. Cosio also said he was concerned that the collaboration with DWR may be affected and that a regulation will make it difficult to address the higher priority items that may come up in the future.

Rebecca Akroyd, San Luis-Mendota Water Authority, said she agreed with Ms. Pierre's previously mentioned concerns. Ms. Akroyd reiterated the written comments of the Water Authority in response to the amendments and asked the Council to revise performance measures 6.2 and 3.9 sub-measure 4.2. She said these conflict with the coequal goals of the Delta Reform Act or lack the support of best available science. With respect to the DLIS amendment. Ms. Akroyd supported option 1, recommendation, rather than a regulation. Citing these reasons, Ms. Akroyd recommended postponing the PEIR and Amendment adoption vote.

The Council members then discussed what they had heard and their thoughts on the materials presented. Council members also addressed some commenters directly such as acknowledging Mr. Wright's points from his comment letter and clarifying Mr. Cosio's concerns about the proposed DLIS regulation and the department's ability to decide what projects it funds. Members acknowledged how transparent the process has been and expressed their opposition to some of the recommended changes such as the proposed DLIS regulation and lack of time to study the large document.

After some debate members Gatto and Thompson requested to vote by individual item, but did not make a motion to do so. Member Tatayon moved the staff recommendation, which was second by member Mehranian.

Motion: (Offered by Tatayon, second by Mehranian) to approve the Delta Plan Amendments, certify the Final PEIR, and Resolution (as written by staff).

Vote: (5/2 Weinberg, Damrell, Gatto, Tatayon, Fiorini, Mehranian, Thomson) and the motion was adopted.

The video showing this motion and vote can be found on the linked agenda: <http://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2018-04-26>, 01:37:55.

4. Closed Executive Session: Litigation (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

5. Reconvene Open Session

6. Adoption of the March 22, 2018 Meeting Summary (Action Item)

Member Mehranian requested to recuse herself from the vote of the Mar. 22, 2018 meeting summary. Chair Fiorini asked if there were any questions, suggestions, or comments from the Council or public regarding the Mar. 22, 2018 meeting summary.

Dr. John Callaway stated there was a typo under Item 9 in the summary of John Durand's article. He was referred to as Dr. Brandt by mistake.

Member Tatayon inquired about a statement made by Chair Fiorini in regards to Item 6. Chair Fiorini suggested ending the summary with "Chair Fiorini acknowledged that there is a solution to this problem." To accurately reflect his statement.

The revised Mar. 22 meeting summary can be found on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-march-22-2018-item-5-february-22-2018-meeting>.

Motion: (Offered by Fiorini, second by Tatayon) to approve the Mar. 22, 2018 meeting summary.

Vote: (6/0: Weinberg, Damrell, Gatto, Tatayon, Fiorini, Thomson) and the motion was adopted. Member Mehranian abstained from voting.

The video showing this motion and vote can be found on the linked agenda: <http://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2018-04-26>, 01:42:58.

7. Chair's Report (Information Item)

Chair Fiorini acknowledged the Delta Plan Implementation Committee (DPIIC) meeting and asked DPIIC Coordinator Amanda Bohl to provide a summary of the meeting

Member Thompson acknowledged the DPIIC agencies recognition of his comments during the meeting. Member Weinberg also acknowledged member Thompson's participation at the meeting. He further acknowledged Chair Fiorini's facilitation skills that helped resolve questions such as; how the agencies coordinate with the Delta Plan?; and, how their actions can move these efforts forward?

Chair Fiorini invited Executive Fellow Seth Yund to present the topic and basis of his fellowship project. Mr. Yund stated he will develop a new model to fulfill Delta Plan recommendations DP R10 (encouraging wildlife friendly agriculture) and DP R7 (subsidence reduction and reversal).

Member Tatayon asked Mr. Yund to share what he's learned so far. Mr. Yund said he was surprised how many working lands projects exists across the state. Member Weinberg asked if Mr. Yund will speak to farmers for his project case study. Mr. Yund said that he had plans to reach out to certain islands for the case study.

Chair Fiorini invited Vice Chair Tatayon to provide an update on the Delta ecosystem chapter subcommittee. Member Tatayon stated the staff are embarking on a rigorous chapter amendment. Staff are completing an incredible amount of work as systematically and scientifically as they can in a short amount of time. Staff are addressing every aspect of the amendment including how to reach out to locals.

8. Executive Officer's Report (Information Item)

Chief Deputy Executive Officer Jessica Law presented the executive officer's report, beginning with the Ecosystem Amendment Update. Ms. Law stated that Council staff continue to work on developing the amendment to on the Delta Ecosystem chapter of the Delta Plan (Chapter 4). She also noted that synthesis papers summarizing best available science on climate change, restoration, and major stressors are now available on our website on the ecosystem amendment page under project documents.
<http://deltacouncil.ca.gov/delta-plan-ecosystem-amendment>.

Ms. Law also made remarks about two comment letters. The first to Department of Water Resources regarding the review of the Department of Water Resources Progress Report on Implementing the Open and Transparent Water Data Act with Initial Draft Strategic Plan and Preliminary Protocols. This letter was a joint planning and science program coordination letter http://deltacouncil.ca.gov/sites/default/files/2018/03/2018-0328_DWR_AB1755_DSC_Comment_Letter.pdf. The second comment letter was submitted by Council staff on the Mitigated Negative Declaration for the proposed Chemours Oakley Site Sediment, Soil and Groundwater Corrective Measures Study http://deltacouncil.ca.gov/sites/default/files/2018/04/18-0420_Oakley_Comment.pdf.

Ms. Law noted a few staff changes. Livia Dossman, the Deputy Executive Officer for Administration, retired earlier this month. Maggie Christman's selection for the vacant Program Manager II position in the Delta Science Division, Science Communication, Synthesis, and Decision-support Unit.

8a. Legal Update (Information Item)

Mr. Tauriainen did not present a legal update this month.

8b. Legislative Update (Action Item)

Ryan Stanbra and Executive Fellow Yund provided the Legislative Update, which can be found on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-8b-legislative-report>.

After some debate member Weinberg summarized the motion and direction to staff: On the two bills 2053 and 2348 move to accept the staff recommendation to support in concept.

Motion: (Offered by Weinberg, second by Mehranian) to accept the staff recommendation to support in concept.

Vote: (6/1: Weinberg, Damrell, Gatto, Tatayon, Fiorini, Thomson) and the motion was adopted.

The video showing this motion and vote can be found on the linked agenda: <http://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2018-04-26>, 02:09:00.

8c. Quarterly Contract Update (Information Item)

The quarterly contract update can be found here: <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-8c-quarterly-report>. Ms. Law presented three contract amendments for the Council to take action on. The Council decided to take one single action on all three contract amendments collectively.

8d. Approval of Association of Bay Area Governments Contract Amendment (Action Item)

Staff requested Council approval for a contract amendment with the Association of Bay Area Governments (ABAG). <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-8d-association-bay-area>.

Council members did not have questions or comments for this item.

8e. Approval of United States Geological Survey - Sacramento Operations Baseline Contract Amendment (Action Item)

Staff requested Council approval for a contract amendment with the U.S. Geological Survey (USGS) for Operation Baseline studies. <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-8e-usgs-operation-baseline>.

Council members did not have questions or comments for this item.

8f. Approval of University of California, Davis Telemetry Research Contract Amendment (Action Item)

Staff requested Council approval for a contract amendment with the University of California, Davis. <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-8f-uc-davis-telemetry>.

Council members did not have questions or comments for this item.

Motion: (Offered by Gatto, second by Tatayon) to approve the three amendment contracts.

(7/0: Weinberg, Damrell, Gatto, Tatayon, Fiorini, Mehranian, Thomson) and the motion was adopted.

The video showing this motion and vote can be found on the linked agenda: <http://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2018-04-26>, 02:22:13

Chair Fiorini asked if there were any members of the public who wished to comment on the executive officer's report; there were none.

9. Lead Scientist's Report (Information Item)

Chair Fiorini invited Dr. John Callaway to present the Lead Scientist's Report. The report covered a number of collaborative and science communication activities such as a summary of the article *Restoration Ecology on implementing adaptive management in the restoration of the Columbia River estuary and Biological Conservation on winter-run Chinook Salmon habitat use*. Dr. Callaway also summarized findings from the Salmon Disease Ecology Workshop and Interagency Ecological Program Workshop. The Lead Scientist Report is available on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-9-lead-scientist-report>.

After Dr. Callaway concluded his report, he invited Nir Oksenberg to present *By the Numbers* summary. *By the Numbers* is posted on the Council's website at <http://deltacouncil.ca.gov/docs/meeting-documents/delta-stewardship-council-april-26-27-2018-item-9-numbers-report>.

10. Public Comment

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

11. 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.

The meeting adjourned at 2:11 p.m.