

Delta Plan Development

Requested Action: Review and discuss Fourth Staff Draft Delta Plan; direct staff to revise, as appropriate, and to post by mid-July, 2011 a Fifth Staff Draft for public review and comment; and to circulate for public review and comment a draft EIR analyzing the Fifth Staff Draft Plan.

Background

The Fourth Staff Draft Delta Plan (Attachment 1) reflects revisions based upon substantial public input and Council direction. The June 23 and 24, 2011 Council meeting will offer an opportunity for further in-depth discussion of the Fourth Staff Draft Delta Plan.

Key highlights from the fourth draft follow. The Delta Plan:

- **Implements a Comprehensive, Enforceable Program** The Plan targets improvements in all areas to achieve the coequal goals: water supply reliability, ecosystem restoration, water quality, reduced risk and protection of Delta as Place. It also provides a preliminary financial strategy to support implementation of these improvements.
- **Establishes a Pragmatic Foundation for Moving Forward** The Plan addresses the interlocking challenges facing the Delta and lays the groundwork for the Plan's long-term success by:
 - Identifying near term actions that avoid further harm or increased risk to the Delta, while critical studies such as the Bay Delta Conservation Plan and Central Valley Flood Protection Plan are being completed; and
 - Calling for development of additional information and policies by State, federal and local agencies that are needed to inform and guide future decisions by the Delta Stewardship Council to achieve the coequal goals.
- **Uses a Balanced Approach in its Implementation Strategy.** The Plan employs a combination of policy recommendations and, as needed, regulations to achieve the coequal goals. The Plan seeks to do the following:
 - Improve coordination among key State, federal and local agencies and programs
 - Promote statewide collaboration and development of improved information for planning
 - Provide incentives where possible
 - Enforce key actions where essential
 - Ensure accountability across all agencies and stakeholders

- **Improves Water Supply Reliability (Chapter 4)** through statewide implementation by urban and agricultural water agencies of existing water planning and conservation laws along with expansion of Water Supply Reliability elements that prepare for catastrophic interruption of Delta exports and implement local and regional water supply projects and rate structures that reduce reliance on the Delta in meeting California's future water supplies (WR P1, WR P2, WR P3). Other key recommendations include:
 - Improve the state's groundwater management (WR R6, WR R7, WR R8)
 - Supporting the timely conclusion of the Bay Delta Conservation Plan to improve the reliability of water exports from the Delta (ER R8)
 - Identify near-term surface and groundwater storage, conveyance improvements and enhanced opportunities for water transfers that can be implemented in the next to 10 years while the Surface Water Storage Investigations, Bay Delta Conservation Plan and other on-going Delta storage, conveyance, flood control and ecosystem habitat evaluations are being completed (WR R5);
 - Promote coordinated implementation of a statewide integrated database that will provide the basis for tracking and evaluating the State's progress in improving statewide water supply reliability (WR R9);
 - Condition contracts and transfer agreements using Delta water upon compliance with the State's water planning, conservation and reporting policies (WR R10); and,
 - Coordinate development of State grant and loan criteria to provide a higher ranking to water agencies that comply with the State's water planning, conservation and reporting policies (WR R2).

- **Restores the Delta Ecosystem (Chapter 5)** by ensuring that Delta habitat restoration projects comply with the State's Ecosystem Restoration Program's Conservation Strategy, and that other actions taken in the Delta do not preclude opportunities for future habitat restoration and floodplain expansion nor increase stressors on the Delta (ER P2, ER P3, ER P5). Other key recommendations include:
 - Development, implementation and enforcement of new, updated flow objectives for the Delta (by 2014) and high priority tributaries in the Delta Watershed (by 2018), that are necessary to achieve coequal goals by (ER R1, ER P1);
 - Implement habitat restoration projects in priority areas of the Delta (ER R2);
 - Reduce stressor impacts on the Delta ecosystem (ER R7, ER R6);
 - Complete Bay Delta Conservation Planning process by 2014 (ER R8);
 - Secure an exemption for Delta levees from levee vegetation policies (ER R5); and,

- Coordinate large scale ecosystem restoration planning through the Delta Conservancy (ER R3)
- **Improves Water Quality (Chapter 6)** by promoting and coordinating completion of core State policies, regulations and projects. Key recommendations include:
 - Complete Central Valley Drinking Water Policy by 2013 (WQ R1);
 - Complete North Bay Aqueduct Alternative Intake Project as soon as possible (WQ R2);
 - Complete regulatory processes setting water quality objectives for nutrients, salts, pesticides, selenium and methylmercury (WQ R5) and promote programs that reduce contaminant loads to the Delta (WQ R4, WQ R7, WQ R8); and,
 - Develop and implement a coordinated Delta Regional Monitoring Program for water quality (WQ R6)
- **Reduces Risks in the Delta (Chapter 7)** by preventing encroachment or diminishment of floodways, requiring compliance with minimum standards for Delta levees , and relying upon the future completion of the “Framework for Department of Water Resources’ Investments in Integrated Flood Management” to guide State investments for levee operation, maintenance and improvement (RR P1, RR P2, RR P3, RR P4). Other key recommendations include:
 - Promote emergency preparedness in the Delta (RR R4), including the creation of a Delta Flood Risk Assessment District that will provide local authority to sustainably fund and implement a regional plan of flood management, levee inspections, risk assessments, and coordinated emergency response (RR R7);
 - Complete studies on the San Joaquin River to reduce potential flooding near Paradise Cut (RR R1);
 - Promote appropriate dredging in the Sacramento River Deep Water Ship Channel and the Stockton Deep Water Ship Channel and other waterways, as appropriate (RR R2);
 - Develop criteria for future setback levees in the Delta and Delta watershed, and require inclusion of adequate area to accommodate setback levees (RR R3);
 - Promote flood management policies that reduce subsidence (RR R8) and encourage upstream flood control management procedures (RR R9); and,
 - Seek legislation to provide specific immunity for public safety flood protection activities (RR R5) and require adequate level of flood insurance in flood-prone areas (RR R6)

- **Promotes Delta as Place (Chapter 8)** by recommending elements to be included in the Economic Sustainability Plan (DP R1, DP R2, DP R6, DP R7, DP R8, DP R9) , promoting funding options including payments-in-lieu-of-taxes where appropriate and voluntary Safe Harbor Agreements (DPR3, DPR4), and support designation of the Delta and Suisun Marsh as a National Heritage Area (DP R5)
- **Identifies Funding Options (Chapter 9)**, including allocation of existing bond funds (Propositions 1E and 84) to support core flood management, risk reduction and habitat restoration recommendations (FP R2, FP R3, FP R4, FP R9), approval of fees for public utilities with infrastructure in the Delta to invest in flood protection (FP R1), and creation of user fees, stressor fees and/or a public goods charge or other broad-based user fee for water to support the coequal goals and the Delta Plan (FP R6, FP R11). Other key recommendations include:
 - Seek legislation to clarify assessment authority for local water agencies, and specifically amend AB 3030 and SB 1938 to allow local agencies to assess fees for groundwater management under Proposition 218 (FP R7)
 - Develop incentives and sources of revenue through habitat credit agreements and carbon offsets (FP R8, FP R10); and,
 - Encourage preparation of infrastructure assessments to identify priority State investments in water supply, ecosystem restoration, and flood management and levee operation infrastructure (FP R5, FP R12).

What Has Changed Since the Third Draft of the Plan?

The Fourth Staff Draft Delta Plan includes significant refinement of many of the regulatory policies and recommendations included in the Third Staff Draft. There are 14 proposed regulatory policies and 54 proposed recommendations in the Fourth Staff Draft; a slight reduction in policies, and an increase in recommendations.

Comment letters from a broad range of stakeholders and public entities have helped staff to become more precise in language and more targeted in approach. Several regulatory policies have been changed to recommendations since the last draft (see Attachment 2: Redline Version of Revised Policies and Recommendations, and Attachment 3: Responses to Comments Received on Third Staff Draft Delta Plan (April 22, 2011 through May 6, 2011)).

There are also several new recommendations in this draft. For example, one deals with the U.S. Army Corps of Engineer's proposed policy on levee vegetation. Unless the current Corp policy is changed, it would have a significant and negative impact on achieving the coequal goals.

There is a new executive summary in this draft. Chapters 1 (introduction) and 3 (governance/implementation), for which we received numerous public comments, have been substantially edited. Policies and text in Chapter 4 (water supply reliability) have also changed. The text of Chapter 6 (water quality) has been rewritten, but the recommendations have essentially not changed. Chapter 9 (finance framework) has become more focused and refined. All other chapters have also been improved generally as the result of public comment. The Fourth Staff Draft also includes an initial set of graphics.

Process and Timeline

On June 16, 2011, the Council discussed the Draft Executive Summary of the Delta Plan and the Environmental Impact Report (EIR) alternatives for the Delta Plan.

At the June 23-24, 2011, meeting, the Council will discuss the Fourth Staff Draft, and will direct staff to revise this draft, as appropriate, (which will become the Fifth Staff Draft) and to post the Fifth Staff Draft on the Council's website for public review and comment. The Council will also direct staff, when ready, to circulate for a 45-day public review and comment period a draft EIR under CEQA analyzing the environmental impacts of the Fifth Staff Draft and a reasonable range of alternatives thereto.

Finally, the Council will direct staff to post on the Council's website, as soon as possible, a detailed schedule and timeline of future actions related to CEQA and to the state rulemaking process to facilitate final Council votes on the EIR and on the Delta Plan in November 2011 (in order to meet the statutory deadline that the Plan take effect in January 2012).

Suggested Motion for the Council's Adoption

Direct staff to do all of the following:

1. Schedule the November Council meeting for Council consideration of certification of the Final EIR and adoption of the Delta Plan, contingent upon prior completion of the CEQA process and meeting the APA rulemaking requirements.
2. Pursuant to the Council's direction at this meeting, revise the Fourth Staff Draft Delta Plan, and prepare a new staff draft. The new draft will be referred to as the Fifth Staff Draft Delta Plan. As soon as possible thereafter, post the Fifth Staff Draft Delta Plan on the Council's website for public review and comment.
3. When ready, circulate for a 45-day public review and comment period a draft EIR under CEQA analyzing the environmental impacts of the Fifth Staff Draft Delta Plan and a reasonable range of alternatives thereto.
4. Post on the Council's website as soon as possible, a detailed schedule and timeline of future actions related to CEQA and the APA rulemaking processes to facilitate final Council votes as referred to in #1 above.
5. Up until the formal circulation and commenting periods in this motion, continually post draft charts, tables or other graphic information proposed for inclusion in the

draft Delta Plan, together with any suggested changes in style, grammar or writing that staff proposes.

List of Attachments

Attachment 1: Fourth Staff Draft Delta Plan

Attachment 2: Side-by-Side Comparison of Revised Policies and Recommendations

Attachment 3: Responses to Comments Received on Third Staff Draft Delta Plan (April 22, 2011 - May 6, 2011)

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