The Delta Stewardship Council adopted the Interim Plan at its meeting of August 27, 2010. There were three (3) draft versions of the plan prior to the final action. The Council solicited electronic communications specifically directed to the various drafts of the Interim Plan as described below.

All comments were posted on the Council website, and staff and consultants were directed to review and consider submitted comments in preparation of revised versions of the plan, in addition to testimony delivered at public hearings of the Council. Pursuant to the Council action on May 27, 2010, focused workgroups were utilized to develop language or alternatives to sections of this plan.

FINAL INTERIM PLAN

Prepared for consideration by the Delta Stewardship Council

California Water Code Section 85084

August 30, 2010

Language specific to the Administrative Procedures changed to conform to administrative procedures governing appeals, which were adopted at the September 2010 Council meeting.

Executive Summary

Introduction

In November 2009, the California Legislature enacted SBX7 1 (Act), one of several bills passed related to water supply reliability, ecosystem health, and the Delta. The Act, which took effect on February 3, 2010, adds Division 35 to the Water Code, the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act), and creates the Delta Stewardship Council (Council) as an independent agency of the state. The Act charges the Council "to develop, adopt, and commence implementation of the Delta Plan...", a comprehensive management plan for the Delta, no later than January 1, 2012.

The law also directs the Council to develop an Interim Plan and include recommendations for early actions, projects, and programs. It is the intent of the Council that this Interim Plan provide a framework to fulfill the requirements of the law, taking preliminary steps toward addressing the crisis in the Sacramento-San Joaquin Delta and the water resources and infrastructure of the state of California. The Interim Plan outlines processes the Council would use to develop its recommendations for early actions, projects, and programs in the fourth quarter of 2010. These recommendations subsequently will be added to the Interim Plan during preparation of the Delta Plan.

Although no legislative deadline was given, the Council has set August 27, 2010, as the date for adoption of the Interim Plan, recognizing the pressing obligation of meeting the legislative Delta Plan deadline. Work on the Delta Plan has begun while the Interim Plan is being finalized.

This is the third draft of the Interim Plan developed for the Council's consideration. Comments on this draft will be received by the Council at its meeting on August 27, 2010. Once adopted, the Interim Plan may be revised, and specific projects and programs may be added as appropriate.

Legislative Findings Concerning the Delta

The key legislative findings and declarations of the Delta Reform Act constitute a clear judgment that:

> The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state's management of Delta watershed resources… It is the intent of the Legislature to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta, and to establish a governance structure that will direct efforts across state agencies to develop a legally enforceable Delta Plan. (Wat. Code § 85001)

Statutory Adoption of Coequal Goals

Additionally, the Legislature advanced several broad goals, including the *coequal goals*, a concept central to understanding the Delta Reform Act and the state's policy for the Delta (Pub. Resources Code § 29702):

> (a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique

cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.

(b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.

(c) Ensure orderly, balanced conservation and development of Delta land resources.

(d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

Statutory Adoption of Objectives Inherent in Coequal Goals

These coequal goals are further expressed in the eight policy objectives set forth in the Delta Reform Act, which "the Legislature declares are inherent in the coequal goals for management of the Delta" (Wat. Code § 85020):

(a) Manage the Delta's water and environmental resources and the water resources of the state over the long term.

(b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

(c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.

(d) Promote statewide water conservation, water use efficiency, and sustainable water use.

(e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

(f) Improve the water conveyance system and expand statewide water storage.

(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.

(h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The Act establishes new policies – including reduced reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency – and also affirms that the "longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta."

Consideration of Early Actions in the Interim Plan

The Council has the authority to make recommendations on early actions and has initiated processes to advance some early actions discussed in the Act, including defining its role in relationship to the Bay

Delta Conservation Plan (BDCP) steering committee and selecting a consultant to provide related advice, and establishing relationships and coordination groups with other federal, state, and local agencies.

Recognizing that it will be required to make recommendations on a wide range of activities before adoption of the Delta Plan by January 2012, the Council concluded that the Interim Plan must provide a framework to guide its actions during this period. The Council intends to give highest priority to issues that require consideration regardless other actions involving major ecosystem restoration or conveyance improvements, or decisions made on new bonds.

Uses of the Interim Plan

The Interim Plan is intended to provide a framework for early actions and inform Council responsibilities and recommendations, while providing a linkage and smooth transition to the Delta Plan.

Framework for Early Actions

The Interim Plan outlines processes the Council will use to develop its recommendations for early actions, projects, and programs. The Interim Plan can also inform the work of other agencies as the Delta Plan is developed. Early actions identified in the Act include:

- Delta flow criteria assigned to the Department of Fish and Game (DFG) for recommendations and the State Water Resources Control Board (SWRCB)
- Responsibilities of the Department of Water Resources (DWR), including efforts to cooperate in the construction and implementation of the Two-Gates Fish Protection Demonstration Project by December 1, 2010; evaluating the effectiveness of the Threemile Slough Barrier project; proceeding with other near-term actions as identified in the *Delta Vision Strategic Plan*; and assisting in implementing early action ecosystem restoration projects, including tidal marsh restoration in Dutch Slough and on Meins Landing
- Preparation of a proposal to coordinate flood and water supply operations of the State Water Project (SWP) and the federal Central Valley Project (CVP), for which DWR has lead responsibility
- Council review of the report of the Delta Protection Commission (DPC) regarding potential changes in the Primary and Secondary Zones of the Delta, in light of the coequal goals and the mandates of the Act
- Completion of the economic sustainability plan by the DPC no later than July 1, 2011
- Development of the DPC's proposal "…to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals"

Inform Council Responsibilities and Recommendations

The Interim Plan informs the Council with advice to—or review of the recommendations of—other agencies, including advice to local and regional planning agencies, and review and approval of Proposition 1E expenditures for selected projects.

Additionally, the Interim Plan includes important organizational and procedural matters that will assist the Council in its role as a responsible agency in development of the environmental impact report (EIR)

for BDCP and potentially as an appellate body regarding the DFG determination of whether BDCP has met criteria specified in the Act.

The Council will be asked to comment on projects and plans affecting the Delta that are undergoing environmental review, and those reviews should be based on the full range of policy objectives and responsibilities included in the Act. Draft procedures for this are included in Appendix A.

Provide Linkage to the Delta Plan

The Interim Plan provides a foundation for transition to the Delta Plan, and a framework for Council operations until the Delta Plan is adopted. Although the Council will take no regulatory action under the framework provided by the interim Plan, its recommendations must be consistent with the Act. The Council work processes described and defined by the Interim Plan should continue with minimal modification in the Delta Plan. The relationships developed with other agencies under the Interim Plan should remain effective as the Delta Plan is implemented.

Interim Plan Processes

Section 3 of the Interim Plan outlines procedures and process the Council will use. The intent is that many elements of the Interim Plan can carry forward to implementation of the Delta Plan and serve to structure the Council's work in developing the Delta Plan. To effectively meet its responsibilities and manage its work flow, the Council will develop:

- Provisions for amendment at the Council's discretion
- A plan to engage agencies whose activities are related to and affected by the requirements of SBX7 1 with the goal of effective communication of the activities of the Council under the Act
- Formalized procedures for core responsibilities of the Council, including reviews of proposed actions and plans (Appendix A includes adopted procedures for Council meetings, procedures for bringing actions before the Council, and three draft procedures for required appeals and reviews.)
- A formal annual or biannual work plan to provide the structure by which the Council uses its resources most effectively and manages relationships with others to achieve its goals
- Structured decision processes, which may vary by categories of decisions

In addition, Council decisions will adhere to these principles and procedures:

- The Council will hear "conceptual" proposals as informational items at its discretion but will not act on conceptual proposals nor will the Council issue "in concept" approvals.
- Robust procedures will be used to ensure transparency and adequate opportunities for interested parties and the public to participate in decision making, including availability of information related to a decision well before the meeting at which it is considered.
- The Council will use the best available science.
- Any project or decision will be considered against all eight policy objectives in accordance with basic legal authorities as summarized by Appendix D.

- The Council will consider technical and legal feasibility, consistency or conflicts with other programs, and ability to implement in timely manner for a specified schedule.
- The seven framework tools (described below) will serve as a basis for analysis and development of performance measures.
- The Council is committed to making progress on all eight policy objectives over roughly similar time frames, with roughly equivalent certainty regarding effectiveness.
- The Council will issue specific written findings and decisions as required by law or otherwise within its discretion.

Council Review Process for Early Actions (Wat. Code § 85084)

The Council establishes processes to consider early actions, starting with those listed in Water Code sections 85080 through 85087 and then those meeting the urgency criteria described in the legislative history of SBX7 1[1]. Early actions should be considered in public hearings of the Council or by a committee of the Council in September, October, and November 2010. Proponents of an early action will be asked to complete an application form adopted by the Council intended to provide the information on which the committee would make its recommendation for the Council. Appendix B contains a potential application form.

A recommendation by the Council for early action is intended to address the urgency of the Delta crisis, and does not exempt that action from the definition of "covered action" or the provisions governing the consistency of state and local public agency actions with the Delta Plan, once it is adopted (Wat. Code § 85225 et seq.).

Analytical Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009

Section 5 provides a framework for organizing available information as a basis for Council action in a wide range of activities under the Interim Plan. The framework will utilize seven tools with which to organize and assess critical information:

- **Delta water flows.** The SWRCB adopted non-binding Delta flow criteria in accordance with Water Code Section 85086. These criteria and other information will be one of the early considerations of the Council.
- **Delta ecosystem restoration plan.** Actions taken to restore the Delta ecosystem are expected to include at least changes in water flows, water quality, and land forms and uses. The CALFED Ecosystem Restoration Program provides tools and processes for evaluating and guiding decision

[1] The full text discussing early actions is: "Early Actions: This bill identifies a series of actions that existing and new agencies need to take as soon as possible – before the Council completes its new Delta Plan. Some actions are administrative. Others are substantive projects for the Delta ecosystem and/or water supply reliability. The early actions part communicates the urgency of responding to the Delta crisis, without waiting for the completion of the new Delta plan." http://www.assembly.ca.gov/acs/newcomframeset.asp?committee=26.

making about restoration actions under the Interim Plan. These include the program's Strategic Plan and the Delta Regional Ecosystem Restoration Implementation Plan conceptual models. The *Delta Vision Strategic Plan* includes approximately 40 ecosystem performance measures organized around five policy strategies. To the extent possible, these (or other) measures of ecosystem function can be combined into summary indices.

- **Indicators of progress in meeting California's future water supply needs on a regional basis.** This tool is intended to summarize progress in satisfying Water Code section 85021, which states: "The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water..." This will require information about the regional efforts, and information developed by DWR could provide a conceptual starting point.

- **Current levee system integrity.** All current human uses of the Delta require a certain level of protection against river flooding, sea level rise, and earthquakes. The Council must ensure progress toward development of a levee system policy that matches the uses and resources at risk with public policy purposes now enshrined in law. Pending the development of more detailed information on levee conditions and policies, this Interim Plan uses the levee classification system developed by DWR and others as a conceptual starting point.

- **Map of planned Delta land uses.** One of the primary goals of the Act is to achieve more effective integration of land use policies in the Delta. Many plans and projects can affect the land forms and land uses in the Delta, including work on flood management policies affecting levees; flood ways and allowable land uses; patterns of land use allowed under the policies of the DPC and local governments; ecosystem restoration projects; improved water conveyance; and other infrastructure investments. Among the existing plans shaping land uses in the Delta are county and city general plans and zoning, county Habitat Conservation Plans, and the DPC Land Use and Resource Management Plan, among others. The Council intends to develop a map of existing Delta land uses as a tool to begin to show and integrate the effects of land use policies.

- **Finance plan.** The Act does not address financing operations of the Council, the Delta Conservancy, or the DPC, nor does it provide financing for actions recommended by these bodies. The issue of adequate financing must be addressed. The Interim Plan can make progress on two important beginning points in a finance plan: (1) beginning to develop accurate and complete information on current finances and (2) initiating discussion of long-term financing to support activities under the Act.

- **Incorporation of science.** Use of "best available science" or "best available scientific information" is required in the Act and the two terms are treated equivalently here. In Section 5, the role of science as a tool and the roles of the Delta Science Program and Delta Independent Science Board are discussed. Procedures for the use of best available science in decision making of the Council are considered in Section 3.

These seven tools focus on core responsibilities of the Council to achieve the coequal goals and organize much of what will be required for decision making. They do not include all elements required for Council action. None of the tools will be fully developed by August 27, 2010, when the Interim Plan is scheduled to be adopted by the Council. However, they will inform Council work under the Interim Plan and may be amended over time.

Conclusion

In adopting this Interim Plan, the Council conveys its commitment to meeting its obligations under the Delta Reform Act.

The Council seeks strong working relationships with agencies and stakeholders in developing an effective Delta Plan that can also serve as many of its missions and goals as possible within the scope of the Act. Important components of those effective working relationships are procedures that ensure transparency and robust procedures for early consultation.

Finally, implementation of the Interim Plan requires full consideration of public input. Opportunities have been and will continue to be provided for the public to engage in the development and implementation of the Interim Plan.

Organization of the Interim Plan

This Interim Plan is organized in five sections, following the Executive Summary:

- Executive Summary
- Section 1. Introduction
- Section 2. Uses of the Interim Plan
- Section 3. Interim Plan Processes
- Section 4. Council Review Process for Early Actions (Wat. Code § 85084)
- Section 5. Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009

A list of acronyms and abbreviations used in this Interim Plan is included at the end of Section 5, preceding the appendices.

This Interim Plan includes five appendices:

- Appendix A includes Council administrative policies and procedures.
- Appendix B provides an Early Action review process for review of applications by the Council.
- Appendix C lists “Council-approved Actions,” which will provide a legal record of actions by the Council until the Delta Plan is adopted. This will include specific early actions, projects, and programs that the Council believes should move forward while the Delta Plan is being developed. The Council-approved actions may be modified as the Council develops the Delta Plan.
- Appendix D lists the basic legal authorities of the Council, organized by policy objective (Wat. Code § 85020).
- Appendix E lists strategies and actions from the *Delta Vision Strategic Plan* and other sources for consideration by the Council in development of the Delta Plan.

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Section 1. Introduction

In November 2009, the California Legislature enacted SBX7 1 (Act), one of several bills passed at this time related to water supply reliability, ecosystem health, and the Delta. The Act became effective on February 3, 2010. The Act adds Division 35 (commencing with § 85300) to the Water Code. This division is known as the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The Act creates the Delta Stewardship Council (Council) as an independent agency of the state (Wat. Code § 85200). SBX7 1 also revises the Public Resources Code (§ 29702 through 29780, and adds Division 22.3) specifying changes to the Delta Protection Commission (DPC) and creating the Delta Conservancy. The Act charges the Council with the development of a Delta Plan, a comprehensive management plan for the Delta, by January 1, 2012. Water Code § 85084 directs the Council to first develop an Interim Plan and include recommendations for early actions, projects, and programs. It is the intent of the Council that this Interim Plan provide a framework to fulfill the requirements of section 85084, taking preliminary steps toward addressing the crisis in the Sacramento-San Joaquin Delta and the water resources and infrastructure of the state of California. The Interim Plan outlines processes the Council could use to develop its recommendations for early actions, projects, and programs in the fourth quarter of 2010. The final recommendations will subsequently be added to the Interim Plan.

The Council considered the Interim Plan outline and three draft versions of the Interim Plan in the development of the adopted Interim Plan. Verbal and written comments received by the Council on the outline and first and second draft versions were greatly appreciated and were considered in development of this third version of the Interim Plan. Once adopted, revisions to the Interim Plan will be considered by the Council as needed.

Background

Formed by the confluence of the state's two longest rivers—the Sacramento and the San Joaquin—the Delta is one of the most valuable and unique natural resources in the state and nation. Over the past 120 years, demands for water and land resources have become more competitive between ecosystem resources, agricultural users, municipal and industrial users, power generators, and flood management operations in the watershed and salmon fishermen outside the Delta. Nearly two-thirds of the state's population relies on the Delta watershed for all or part of its drinking water. Much of California's irrigated agriculture is dependent on water from the Delta watershed and so too is the state's iconic salmon fishery. The Delta is home to more than half a million residents. The many islands and waterways form important habitat for hundreds of plant and animal species. Additionally, tourism and recreation opportunities draw visitors to the estuary from around the state and the world. The Delta also contains major infrastructure of statewide importance, including aqueducts, natural gas pipelines, electricity transmission lines, railroads, shipping channels, and highways.

Despite the Delta's importance, the challenges of effectively addressing both water supply and ecosystem needs have led to increased conflicts over time. Even with the passage of the federal and state Endangered Species Acts, ever-more-rigorous water quality laws, and federal and state environmental protection acts, the natural resources of the Delta have not been effectively protected, nor are reliable supplies of water being provided for California. The challenges in meeting these often-competing uses are compounded by new scientific information suggesting increased risks from climate change, which is causing sea level rise—changing water levels and salinity in the Delta—and the potential for increased flooding along Delta rivers. This new science also indicates the risk of major

seismic events, with the potential to cause devastating impacts on public health, safety, and welfare, is greater than previously understood.

Some examples of these challenges are highlighted in the following discussion.

Declining Water Supply Reliability and Water Quality

The *California Water Plan Update 2009* states that "California is facing one of the most significant water crises in its history--one that is hitting hard because it has many aspects and consequences. Reduced water supplies and a growing population are exacerbating the effects of a multi-year drought. Climate change is reducing our snowpack storage and is increasing sea level and floods." Despite evidence of efficiency improvements, technological advancements, and increased attention and action by policymakers, more water must be conserved to meet tomorrow's demands, as well as to ameliorate today's water shortages and the Delta ecosystem's declining conditions.

Much of the state's water supply infrastructure, including the Central Valley Project (CVP) and the State Water Project (SWP), were designed, approved, and constructed without any policy requirement to consider or address impacts on ecosystems or other uses dependent on changed water flows, such as the ocean salmon fishery. Moreover, some storage and conveyance facilities projected in early plans were never constructed. Additionally, the available water appears to be overpromised and the state's system to regulate water rights and even to have accurate information on water uses is inadequate.[2]

These factors create conditions in which meeting expectations for water deliveries are very challenging which the Delta Vision Strategic Plan summarized as follows:[3]

> The State Board reports that the face value of existing water rights permits in the Delta watershed is more than eight times the average annual unimpaired flows in the watershed.[4] Face values overstate actual water use for several reasons, but noting that pre-1914 and riparian rights are additional to these numbers suggests that the water resources of the Delta watershed are greatly over subscribed. The State Board also has 4.2 million acre-feet of *new* water rights applications pending in the watershed—the equivalent of more than two-thirds the water that passes through the Delta annually.[5] While some of these applications will not be pursued and others are unlikely to be approved, the level of existing demands further illustrates how acute the call on Delta water will be in future.

The California Constitution establishes the principles of beneficial use and no waste or unreasonable use as foundations of state water policy:

> It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or

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[2] State Water Resources Control Board. Water Rights Within the Bay-Delta Watershed. September 26, 2008. Provided to the Delta Vision Blue Ribbon Task Force.

[3] . Delta Vision Blue Ribbon Task Force. 2008. *Delta Vision Strategic Plan.* page 17.

[4]. State Water Resources Control Board. September 2008.

[5]. State Water Resources Control Board. June 2008.

> unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use or unreasonable method of use or unreasonable method of diversion of water. Article 10. Section 2.

Water Code section 10608 reflects this constitutional requirement. Water is a public resource protected by the California Constitution against waste and unreasonable use. Water use efficiency programs have been considered an effective tool for more than 30 years to increase water supply reliability, reduce dependence on Delta water supplies, and, more recently, to reduce energy use for conveyance and treatment. A statewide public education program, Save Our Water, educates water users about the limited water supply and encourages water use efficiency. The California Urban Water Conservation Council and the Agricultural Water Management Council are actively participating in the implementation of SBX7 7 to develop criteria and methods through a public process to attain increased water use efficiency.

Delta water quality is also important to support a wide range of beneficial uses from ecosystem habitat to water supplies to recreation. The needs of these beneficial uses vary widely. Water quality in the Delta is highly variable and influenced by inflows from the rivers, seawater intrusion and tidal action, and general water circulation that is influenced by channel geometry and diversions by local agencies and the SWP and CVP. Compounds are introduced into waters that flow through the Delta from general runoff in the watershed, agricultural drainage and flows, stormwater and wastewater discharges, industrial diversions and discharges, and groundwater inflow into the Delta waters. Some aquatic species remove and/or contribute compounds that may be beneficial or harmful to Delta beneficial uses. The tidal cycle mixes saline, brackish, and fresh waters twice daily, and the mixing zone can extend for miles into the Delta, especially during periods when inflows from the tributaries are low.

Salinity levels in Delta water have long been a concern. The two primary sources of salinity in the Delta are seawater intrusion and agricultural drainage. The contribution of salt from each of those processes to the overall salinity varies by season and by location within the Delta. For example, in the western Delta near Antioch seawater intrusion is the primary source of salinity whereas salinity near Stockton is often largely due to agricultural runoff. Prior to European settlement, Delta salinity was primarily due to seawater intrusion and the extent of intrusion depended on the amount of freshwater flowing out of the Delta. Since the late 1880s, major anthropogenic modifications to the Delta that affect salinity intrusion can be classified into two categories: physical modifications of the landscape, and upstream water management activities.

Over the past century, many strategies have been employed to manage increasing salinity in the Delta. Salinity has been and continues to be managed by both engineered solutions and by regulations. Engineered solutions include rock barriers and gates such as the Delta Cross Channel. Salinity regulations became prominent in 1978 when the Water Quality Control Plan and State Water Resources Control Board (SWRCB) Decision 1485 established water quality requirements at key locations to protect agriculture, municipal and industrial uses. The Bay-Delta Accord of 1994 and subsequent SWRCB Water Rights Decision 1641 have enhanced salinity regulations to protect fisheries. Despite many salinity management strategies over the past century, increasing salinity remains a key concern that must be addressed in order to protect and restore both the beneficial uses of the Delta and the environment.

Examples of water supply and quality concerns include:

- Water quality is likely one significant limiting factor in overall ecosystem health. Agricultural drainage, wastewater discharge, toxins, pollutants, and low dissolved oxygen levels have all been found to damage habitat quality for various aquatic organisms. Current salinity patterns may be enabling the survival of non-native species that are not adapted to the Delta's formerly more variable seasonal salinity. Salinity patterns in the South Delta have been altered sufficiently that at times there is a "reverse" salinity gradient between the Western Delta and San Joaquin River, where it is saltier east of the Central Delta toward the San Joaquin River discharge than it is toward the westward ocean. This salinity gradient reversal has the potential to confuse seaward-migrating fish.

- Other likely significant limiting factors for ecosystem health are water flows and the timing of those flows. Over the past several decades, studies have incorporated flows, including reverse flows in Old and Middle rivers, and the effects on salinity and turbidity. Recently, studies have been initiated to identify the effects of potential other stressors on beneficial uses of the aquatic habitat and water supplies.

- Projections for climate change indicate that temperatures and sea levels will rise throughout California. The sea level rise will increase salinity intrusion into the Delta. These changes could reduce available water supplies from the tributaries, likely will require changes to the regulatory and operating criteria for flows to be released from reservoirs to maintain water quality for the ecosystem and agricultural users, and modify use of specific areas in the Delta by aquatic species that could further reduce the usefulness of the SWP and CVP southern Delta intakes.

- Overall urban water use has doubled over the last 40 years as a result of growth in several urban sectors, including population, landscape irrigation, and industry. In 2009, the Department of Water Resources (DWR) estimated that, under current population and use trends, overall urban demand will increase 72 percent by 2050.[6] In the *California Water Plan Update 2009*, DWR discusses methods that could be used to reduce this projected increase in urban water use in accordance with the provisions of SBX7 7.

Declining Ecosystem Health

The Delta ecosystem has been dramatically altered from its pre-Gold Rush conditions by many factors. Additionally, sudden events such as an earthquake or flood could dramatically alter the physical habitat of the Delta by destroying levees, with unpredictable effects. More gradual changes, such as sea level rise, rising water temperatures due to climate change, or additional invasions of exotic species, also could transform the current ecosystem in ways that are difficult to anticipate or manage, thus complicating the prospect of restoration.

Throughout most of the Delta and Suisun Marsh, land and water are separated by levees. This is a profound change from past eras, where water followed many natural channels and overtopped natural banks at high flows across virtually the entire Delta. Most ecosystem processes of the past relied upon

[6] (1) DWR and California Department of Food and Agriculture. "Current Water Use Efficiency Policy and Programs and Estimate of Agricultural and Urban Water Use." Report prepared for the Delta Vision Blue Ribbon Task Force, 2008. (2) Groves, Matyac, and Hawkins. "Quantified Scenarios of 2030 California Water Demand." Prepared for the California Water Plan Update 2005.

periodic pulses of tides, fresh water, and nutrients across the landscape at varying frequencies and intensities, driven by tides or seasonal, high river flows. The Delta of today, by contrast, is largely a channelized system, where farmlands, homes, and infrastructure are protected from water by levees, preventing these ecologically productive mixtures. Partly because of this separation of land and water, some of the Delta landscape has subsided as much as 25 feet below sea level, making its restoration to a pre-Gold Rush tidal marsh condition (even if judged desirable) physically infeasible. Examples of ecosystem health concerns and considerations include:

- Inflow patterns from the rivers have been sharply altered by the construction of large dams on most of the tributaries and the associated water project operations. These changes have also reduced the magnitude of channel-forming flood flows that formerly deposited sediment and altered channel configurations throughout the Delta.
- The construction of numerous cross-cut canals in the Delta may have had the effect of homogenizing aquatic ecosystems by reducing the physical habitat diversity of channels and limiting the residence time of certain key nutrients and other ecological resources.
- Entrainment of fish, eggs, larvae, and nutrients occurs in the south Delta intakes of the SWP and CVP pumping plants. As pumping rates increase, the effectiveness of the ebb tide to move fish away from the pumping plants decreases. Entrainment also occurs at other water diversion points throughout the Delta. Although the individual capacity of each diversion as compared to the SWP and CVP pumping plants is small, the total peak diversions at these approximately 1,800 other points are substantial and should be addressed.
- There has been a sudden and dramatic crash of several pelagic (i.e., open-water) fish species in the last decade. The causes of this crash are disputed, but likely include, in some combination, the monopolization of the food chain by non-native species, water exports through the major south Delta pumps, changes in the direction and seasonality of flow patterns in the Delta, the introduction of toxins and other pollutants into the Delta through river inflows, and the accumulated loss of food production, breeding, and rearing habitat.
- The aquatic ecosystem of the Delta is now dominated by invasive species, to the detriment of increasingly endangered native species such as the delta smelt. Some studies have found that benthic (i.e., bottom-dwelling) biomass in the Delta is 95 percent composed of non-native species, and the Delta has been characterized as one of the most invaded estuaries in the world.
- Changes in flows, aquatic habitat, and water quality have led to regulatory requirements to protect threatened and endangered species listed under the federal and state Endangered Species Acts. Biological opinions, court orders, species recovery plans, mitigation plans, and conservation plans all seek to improve conditions for the fish and wildlife that depend on the Delta.
- The Delta is still home to a wide variety of birds, mammals, reptiles, and amphibians, including threatened and endangered species, but all of these animals must exist within smaller patches of habitat than in previous eras. The Suisun Marsh alone contains more than 10 percent of California's remaining wetlands, and is a critical wintering and nesting area along the Pacific Flyway.

Threats to the Delta Communities and Economy

The Delta is a significant region with a distinctive social, cultural, and natural heritage. The Delta's predominant land use is agriculture, especially within the Primary Zone defined by the Delta Protection

Act of 1992. The Primary Zone also contains small unincorporated communities and "legacy communities," or towns with distinct natural, agricultural, and cultural heritage described in Public Resources Code section 32301(f). These possess a rural charm and include cultural events, specialty local businesses, and nearby recreational opportunities that are attractive to many visitors. The Secondary Zone encompasses a large area ranging from West Sacramento in the north, to Stockton in the southeast, and Pittsburg in the west. This area includes historic urban communities with numerous commercial and industrial businesses that serve agricultural and suburban communities, and rely on the Delta for high quality water supplies and navigable waters to efficiently transport goods and materials. Examples of concerns and considerations include:

- The Delta Protection Act also created the DPC, and it requires that land development proposals within the Delta Primary Zone be consistent with the DPC's Delta Resource Management Plan. Since the passage of the Delta Protection Act, no new tract-scale housing development has occurred within the Primary Zone, much of which is deeply subsided and at high flood risk. Future development in the Delta must continue to recognize the inherent risks in primary-zone development proposals, and even many secondary-zone proposals. Some past and pending development projects in the Secondary Zone are in locations that could compromise flood protection for existing Delta islands and residents by constraining floodways and limiting flood-fighting options.

- In 1995, the DPC adopted a Land Use and Resource Management Plan for the Primary Zone of the Delta. Over the past years, new information became available, Delta conditions changed, and several programs have begun planning for the Delta's future. Therefore, DPC developed and adopted the update on February 25, 2010.

- The Delta also contains major infrastructure of statewide importance, including aqueducts, Delta channels that convey water past and to water diversion facilities, natural gas pipelines, electricity transmission lines, railroads, shipping channels, and highways. The potential cost of a mass failure of this infrastructure to the state's economy is difficult to estimate, but is certainly in the tens of billions of dollars.

- For the agricultural and municipal economy to improve, the region needs to build wastewater and water treatment facilities and other infrastructure to meet recent and future regulatory requirements.

- The Delta has a well-established recreation industry, including boating, fishing, and other activities.

- Agricultural economic development is threatened by the uncertainty of policies, regulations, and investments related to Delta levee improvements.

Unreliable Storage and Conveyance

The Delta is important to a wide range of water-related benefits to all of California from in-stream, riparian, and tidal marsh ecosystem habitat; drinking water supplies to more than 25 million California residents; and irrigation water supplies for lands in the Central Valley, South Bay Area, Central Coast, and Southern California. These benefits to urban, agricultural, and environmental water users depend on a reliable water conveyance system and statewide storage system. Despite these benefits, the California Legislature concluded that California's water infrastructure was in crisis (Wat. Code § 85001(a)).

Discussions of improved and more reliable conveyance of captured water through or around the Delta are long-standing. Among others, reports by the DWR, the Bureau of Reclamation (Reclamation), and the Department of Fish and Game (DFG) addressed this issue. In the 1960s, the Peripheral Canal was proposed, but the legislative action approving the proposal ultimately was rejected by the voters of California in 1982. During preparation of the CALFED environmental impact report/environmental impact statement (EIR/EIS), alternative conveyance options were considered after completion of studies and implementation of pilot studies to improve water supply reliability and water quality for central and southern Delta water users and the SWP and CVP. Over time, new policies and court decisions affected timing and volume of exports.

- These policies and court decisions have restricted both quantity and timing of diversions by the SWP and CVP southern Delta intakes.

- Prior to development of water resources facilities, anadromous fish were attracted upstream during storm events from fall through the spring. The storm flows also provided pulse flows to move fish downstream from the upper reaches of the streams and high flows to reduce salinity intrusion into the Delta. Development of water storage and conveyance facilities modified the flow patterns by shifting peak and reducing river flows from fall through spring months to summer months. Construction of levees eliminated many wetland and shallow water zones where spawning and rearing of estuarine species occurred. Levee maintenance programs also eliminated riparian vegetation that provided shade for temperature control and protection from ultraviolet radiation. These changes affected anadromous fish species and Delta water quality patterns. Operation of the SWP and CVP pumping plants in the Delta also changed flow patterns in the central and southern Delta.

- A portion of the water released from upstream SWP and CVP reservoirs is currently used to meet regulatory requirements. The amount of flow used to maintain the salinity objectives also reduces the amount of water available for export by the SWP and CVP facilities.

- Some climate change projections indicate the likelihood of more frequent and intense storm events. These conditions in conjunction with the aging levee conditions increase the risk of levee failure, especially during storm and seismic events. Massive levee failures could be difficult to repair and cause saltwater intrusion into the Delta that could only be reversed over a long period of time using high volumes of fresh water from upstream reservoirs or storm events. Increased salinity would substantially degrade the Delta aquatic habitat, Delta water supplies, Delta agriculture, and recreation.

- Additional storage, both upstream and downstream of the Delta, and improved water conveyance facilities could provide flexibility for water operations to provide a reliable water supply for agricultural and municipal and industrial water users. Upstream storage could provide benefits for storage of flows during flood events that could later be released to meet Delta inflow and outflow requirements and local and statewide water supplies. Downstream storage could provide flexibility to store water that would be diverted from the upstream area and/or the Delta during high flow events for later use. Currently, many areas that use SWP and CVP water do not have adequate water storage south of the Delta to provide water supplies for extended periods of time if the Delta water conveyance was disrupted.

- Water supply limitations also occur due to institutional and conveyance constraints. The need for water transfers frequently is not identified until the spring season, when it becomes apparent that

there will not be additional storms to replenish water reservoirs or groundwater. By that time, it is difficult to implement water transfers in a timely manner for the irrigation season due to regulatory requirements. Institutional requirements related to the need to obtain regulatory approvals for water users to use other water agencies' conveyance facilities also have caused delays in providing water to respond to water shortages. Recently, several programs, including the Delta-Mendota Canal/California Aqueduct Intertie and the Joint Point of Diversion (to allow use/exchange the capabilities of the State Water Project and Central Valley Project diversion facilities to enhance the beneficial uses of both projects), have been initiated to improve interagency use of water supply facilities.

Increasing Risks to People, Property, and State Interests

The risks to people, property, and state interests in the Delta stem from failures and overtopping of levees that protect land areas and define water channels within the Delta, and from inadequate emergency management mitigation, preparedness, and response and recovery capacity given the risks in the Delta from floods and other emergencies such as fire.

Levee failures can occur during high Delta water inflow, earthquakes, and even undetected levee problems during normal conditions. Levee failures not only create direct damage and potential loss of life from flooding, but also change the configuration (water and land) of the Delta and mixing of fresh water with salt water. These temporary or long-term changes influence water supply, the ecosystem, and other Delta uses. Climate change is likely to compound the risk of levee failures from increases in storm runoff to the Delta and from a rise in sea level that will place more pressure on Delta levees, unless the levees are substantially improved to accommodate these changes. The potential for catastrophic failures of many Delta levees simultaneously has only recently been analyzed quantitatively and is not yet addressed by a policy for sustainability.

Beyond the risk of actual levee failures, the annual high water and high wind events in the Delta require local reclamation districts to conduct emergency levee patrols and flood fights to address levee overtopping issues. These events create considerable costs and, if not adequately addressed, can lead to extensive damage and even to a levee failure. If the challenge is beyond local capability, county, state, and/or federal emergency assistance may be requested.

Some pertinent facts that influence risk of Delta levee failures include:

- The main flood management facilities include about 1,100 miles of levees in the Delta and about 230 miles of levees in the Suisun Marsh and the Yolo Bypass. Delta flood management is also affected by levees, bypasses, and dams in the upstream watershed.

- Because the Delta is an estuary with substantial amounts of land below sea level, water is constantly exerting pressure against those levees protecting lands below sea level. Therefore, levees can fail at any time for various reasons, including the burrowing activities of animals, long-term erosion (from high flow events, wind-induced waves, and boat wakes), seepage along imbedded objects (such as pipes), seepage through sand layers in the levees or in underlying levee foundations, increased water pressure caused by island subsidence, deferred maintenance, floods, and seismic events.

- DWR has primary responsibility for maintaining federal flood control project facilities throughout the Central Valley, including "project levees" located in the Delta. Project levees formerly certified for Federal Emergency Management Agency (FEMA) 100-year level of protection are under review and some have been decertified. More than 700 miles, or 65 percent, of Delta levees are classified

as "nonproject" because they are not part of an authorized federal flood control project. These levees have been built and maintained by landowners or reclamation districts, initially to protect agricultural lands. More recently, their impact on ecosystem and water supply reliability has been recognized. They are almost never as durable as the project levees.

- Incidents of levee failure within the Delta have decreased during recent decades due to the establishment of federal and state flood management funding programs, including the Subventions Program in 1973 and the Delta Levees Program in 1988. Some communities have never seen a levee failure, and some Delta islands have flooded at least once. Based upon information presented to the Council in June 2010, 31 levee failures occurred in the legal Delta between 1967 and 2004, somewhat less than an average of one per year; and there were more levee breaks and floods in Suisun Marsh, where levees are commonly built to lower levels of protection.[7]

- Most of the Delta levees do not meet the FEMA definition for 100-year flood protection (per the National Flood Insurance Program). Many do not yet meet the minimum requirements to be eligible for federal disaster assistance.

- Historically, the levee work by reclamation districts was financed by the owners of the lands within the levees. Over about the last 30 years, the State of California has provided supplemental financing for levee maintenance and emergency response through DWR's Delta Levee Maintenance Subventions Program. Additional assistance has become available more recently through DWR's Special Flood Control Projects Program.

- Wildfires cause another set of risks to property and ecosystems throughout the Delta in areas with seasonally dry vegetation, and areas with peat soils are particularly vulnerable. Fire districts in some areas, such as the Clarksburg Fire Protection District, provide emergency response with paid and volunteer staff. Other areas, such as East Contra Costa Fire Protection District, have more full time fire department staff. Many areas are not protected by fire departments, such as Bradford Island, which recently experienced a wildfire that destroyed several structures.

The Complexities of Governing the Delta

Passage of the Delta Reform Act was partially a response to widespread criticism of past efforts to address problems centered on the Delta. The California Legislature concluded that resolving the crisis in the Delta would require a fundamental reorganization of the state's management of Delta watershed resources, and recommended a governance structure be established that would direct efforts across state agencies to develop a legally enforceable plan for the Delta (Wat. Code § 85001). Among the major assessments leading to this legislative finding were: a major report by the Little Hoover Commission, *Still Imperiled, Still Important* (2005); the work of the Delta Vision Blue Ribbon Task Force, *Delta Vision Strategic Plan* (2008) and the *Delta Vision Committee Implementation Report* (2008); a review, *Implementation Status of the CALFED Bay-Delta Program, Years 1 through 5*[8] by the California Department of Finance; and analyses and recommendations from the California Legislative Analyst,

[7] Information from US Army Corps of Engineers compiled by Nicole Suard, comment to Delta Stewardship Council, June 2010.

[8] California Department of Finance, Performance Review Unit.. *Implementation Status of the CALFED Bay-Delta Program, Years 1 through 5*. November 2005. http://www.dof.ca.gov/osae/special_reviews/documents/Cal_Fed_report_FINAL_w.pdf.

including *Reforming the CALFED Bay-Delta Program* (2006).[9] Additionally, an audit was completed by the California Department of Finance, as reported in *A FISCAL REVIEW: CALFED Bay-Delta Program Summary of Expenditures* as of September 30, 2004.[10]

Addressing the crisis in the Delta will require not only addressing important physical and biological processes and socioeconomic drivers, but coordination and integration among the multiple regulatory processes and actions, administered by more than 240 separate agencies with separate and occasionally overlapping authorities, already in place. A short summary from the *Delta Vision Strategic Plan* (2008, page 121) notes: "When viewing the current governance structures in the Delta three key points emerge: state interests are neither clearly expressed nor effectively pursued, literally hundreds of federal, state and local governmental entities share responsibility for the Delta and its resources, and no one entity is responsible for managing important state interests."

SBX7 1 provides important new tools to address the widely accepted inadequacies of prior governance of the Delta, including integrating existing plans or policies relevant to the Council's work. The reforms launched in the Act are substantial and offer promise of more effective action. They are being initiated at a time when many agree action is needed, but important stakeholders disagree on the meaning of the enacted legislation and funding recommendations. Concurrently, the state's fiscal future looks bleak for many years, which means that financing aspects of the legislation will be uncertain. Lack of a stable financing structure may lead to difficulty in achieving the coequal goals.

Recent and Ongoing Actions Reflect Urgency and Momentum for Change

These challenges, and many others, are anticipated to increase over time, adding to the urgency to find and implement solutions to make the system more sustainable. Examples of past, current, and proposed actions include:

- Following construction of the SWP and CVP, the SWRCB considered and adopted numerous decisions and associated water rights orders for operations of the projects to identify minimum water flow and water quality conditions at specified locations in the Delta to be maintained in part through the operation of the SWP and CVP in accordance with the Coordinated Operations Agreement that was adopted by the state Legislature and Congress (Public Law 99-546). Most recently, the SWRCB adopted Decision 1641 to implement the 1995 Bay-Delta Plan.

- In 1988, the SWRCB draft Water Quality Control Plan included specific water use efficiency requirements as part of a plan to improve water supply reliability and Delta ecosystem health. Although this plan was not adopted, these efforts led to the formation of the California Urban Water Conservation Council in 1992 and development of a Memorandum of Understanding between water suppliers throughout the state. There are more than 200 voluntary water supplier signatories to this Memorandum of Understanding to implement water conservation plans. Agricultural users formed the Agricultural Water Management Council and developed a Memorandum of Understanding

[9] Legislative Analyst Office. February 2006. *Analysis of the 2006-07 Budget Bill: Reforming the CALFED Bay-Delta Program*. http://www.lao.ca.gov/analysis_2006/resources/res_02_anl06.html.

[10] The Department of Finance, Office of State Audits and Evaluations. October 2005. *A Fiscal Review: CALFED Bay-Delta Program Summary of Expenditures as of September 30, 2004.* February 6, 2006. http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf.

Regarding Efficient Water Management Practices by Agricultural Water Suppliers in California. In 2006, there were more than 60 signatories to this Memorandum of Understanding.

- Since 1993, the National Marine Fisheries Service and U.S. Fish and Wildlife Service (USFWS) have issued several biological opinions that address modifications of the SWP and CVP operations to avoid jeopardizing the continued existence of salmonid, steelhead, sturgeon, associated populations of killer whales, and delta smelt species that are listed in accordance with the federal Endangered Species Act.

- The 2000 CALFED Record of Decision (ROD) recognized the importance of ecosystem restoration for the Delta. CALFED, DWR, DFG, Reclamation, USFWS, and other agencies implemented several programs to initiate ecosystem restoration studies and projects including the Ecosystem Restoration Program, studies for Suisun Marsh Preservation Agreement, Delta Pumping Plant Fish Protection Agreement, and San Joaquin River Restoration Program.

- The CALFED ROD also identified five potential storage projects to be considered as part of a comprehensive plan to restore ecological health and improve water management for beneficial uses in the Bay-Delta system, including expansion of Shasta Lake, Sites Reservoir, In-Delta Storage, Upper San Joaquin River Storage, and expansion of Los Vaqueros Reservoir. DWR and Reclamation initiated the Integrated Storage Investigations to evaluate the feasibility of these programs. Many of these programs had been identified for potential expansion of storage upstream of the Delta for more than 80 years, primarily to provide flood management ability and water supplies.

- The DWR California Water Plan Update 2005 provided a framework for action to manage water resources in a sustainable manner with a range of tools, including diversification of regional water portfolios, integrated regional water management, remediation, and use of local surface water and groundwater supplies that support statewide sustainable water supplies.

- The SWRCB's Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary establishes objectives for the protection of the estuary's beneficial uses from the effects of salinity (from saltwater intrusion and agricultural drainage) and water project operations (flows and diversions). The SWRCB is currently updating this plan in accordance with the SWRCB's Strategic Workplan published in July 2008. The Workplan addresses several activities that could directly or indirectly affect Delta water quality. The SWRCB actions for many of these activities are to be completed by 2012, with several issues to be addressed by mid-2013. These issues also are being addressed by the Bay Delta Conservation Plan (BDCP) as part of the development of the Habitat Conservation Plan and Natural Community Conservation Plan.

- SB 5 (Machado), enacted in 2007, required DWR and the Central Valley Flood Protection Board to prepare and adopt a Central Valley Flood Protection Plan by 2012, and establishes flood protection requirements for local land use decisions consistent with that plan.

- Two programs—the Delta Levees Subventions and Delta Levees Special Flood Control Projects—recently have received substantial increases in appropriations (increase by factors of 2 and 10, respectively) due to funds that have become available from Propositions 84 and 1E. Collectively, the programs have revised their guidelines and Proposal Solicitation Packages to reflect this extra funding and to apply and make more specific the priorities established by the appropriating legislation. Generally stated, these priorities place strong emphasis on levee maintenance and initial improvements that are most closely aligned with the State's interests.

- In July 2007, a speech by Governor Schwarzenegger directed immediate actions to preserve the Delta and California's water supply. His list of immediate actions included: expanding the invasive species control program; screening small Delta diversions; improving North Delta habitat that is important to smelt, specifically the Cache Slough Project; proceeding with a Delta Emergency Response and Preparedness Plan; and managing subsidence in the Delta.

- In February 2008, Governor Schwarzenegger sent a letter to Senators Perata, Machado, and Steinberg outlining an approach to improve water supply reliability and Delta ecosystem health. The letter described several key elements, including a plan to achieve a 20 percent reduction in per capita water use statewide by 2020, subsequently referred to as "20X2020." DWR established a 20X2020 Team that includes SWRCB, California Energy Commission, Department of Public Health, and California Public Utilities Commission. Reclamation and the California Urban Water Conservation Council also participate with the 20X2020 Team.

- Governor Schwarzenegger's 2008 letter directed DWR and other state agencies to evaluate Delta water conveyance alternatives. These alternatives include (1) continuation of conveying water through existing Delta channels; (2) conveyance using a new isolated facility that would divert water in the North Delta and convey water to the southern Delta or the SWP and CVP pumping plants; (3) a combined "dual conveyance" option that would continue to convey water through existing Delta channels and utilize a new isolated conveyance facility; and (4) continuation of conveying water through existing Delta channels following armoring of critical levees to protect the water supply corridor. The letter also required DWR to complete the Integrated Storage Investigations for Temperance Flats (Upper San Joaquin River Storage), Sites Reservoir, and expanded Los Vaqueros reservoir. Additionally, the BDCP Habitat Conservation Plan and Natural Communities Conservation Plan efforts are currently evaluating numerous conveyance options along with measures to improve the ecosystem and reduce the effects of other stressors.

- The 2008 Sacramento-San Joaquin Delta Emergency Preparedness Act (SB 27, Simitian) established the Sacramento-San Joaquin Delta Multi-Hazard Coordination Task Force. It is coordinated by the California Emergency Management Agency and includes local county emergency management agencies, DWR, and DPC. It is charged, among other responsibilities, with making recommendations on the development of a draft emergency preparedness and response strategy for the Delta Region, and to develop and conduct an all-hazard emergency response exercise in the delta. The task force is required to submit a report with its strategy and recommendations to the Legislature and the Governor prior to January I, 2011.

- The federal agencies agreed in a December 2009 Interim Federal Action Plan for the California Bay-Delta to coordinate the federal efforts to address ecosystem restoration with the state agencies.

- The BDCP Habitat Conservation Plan and Natural Community Conservation Plan process is conducting a detailed evaluation and effects analyses of proposed ecosystem restoration and conveyance facilities.

- In 2000, CALFED Bay Delta Program EIR/EIS Ecosystem Restoration Program Plan defined "stressors" as natural or unnatural events or activities that adversely affect ecosystem processes, habitats, and species. Environmental stressors identified in the report included water diversions, water contaminants, levee confinement, stream channelization, bank armoring, mining and dredging, excessive harvest of fish and wildlife, introduced predator and competitor species, and invasive plants in aquatic and riparian zones. Concepts to reduce stressors were described in several

programs during the past 10 years, including for the Delta Vision Blue Ribbon Task Force and BDCP. The 2010 Ecosystem Restoration Program Conservation Strategy for Stage 2 Implementation, Sacramento-San Joaquin Delta Ecological Management Zone, identifies three categories of stressors: water diversions and barriers, invasives, and water quality stressors. These and other studies have considered a wide range of plans to reduced stressors, including the following actions:

- Continued implementation of the Sacramento Valley-Delta Fish Screen Program
- Modification of fish management facilities and operations of the Delta export facilities
- Continued implementation of the Non-native Invasive Species Strategic Plan and DFG California Aquatic Invasive Species Management Plan
- Investigation of methods to reduce non-native predatory fish, including increased harvest rates
- Continued implementation of Department of Boating and Waterways Egeria densa programs, and investigation of the invasion processes for Egeria and Mycrocystis and other species
- Continued implementation of programs for treatment of zebra and quagga mussels and other invasive clam and mussel populations
- Evaluation of the relationship between non-native invasive species populations and water quality conditions
- Evaluation of water quality criteria and best management practices to control methylmercury from restored wetlands, reduce methylmercury from entering Yolo Bypass and the Delta from Cache Creek Settling Basin, and reduce selenium from the San Joaquin River watershed
- Evaluation of water quality criteria and best management practices to improve dissolved oxygen in the Stockton Deep Water Ship Channel and San Joaquin River
- Investigation of the relationship of contaminant exposure and organism effects, including consideration of ammonia, pharmaceutical residuals, pyrethroids and other pesticides, herbicides, and toxics from non-point source runoff
- Investigation of methods to reduce illegal poaching of fish in the Delta
- Investigation of methods to identify hatchery fish to allow fishermen to release wild fish, including use of "mark select" methods

- The theme of California Water Plan Update 2009 is integrated water management and sustainability. The implementation plan (Volume 1, Chapter 7) includes actions from multiple state government companion plans and the 2009 comprehensive Delta/water/ecosystem legislative package.

These examples demonstrate the enormous efforts and resources that have already worked toward addressing the challenges in the Delta. Despite this, the California Legislature's 2009 water package made clear findings about the ongoing crisis in the Delta and proposed coordinating these efforts through a new governance system with specific responsibilities.

Statutory Findings Concerning the Delta

The key legislative findings and declarations of the Delta Reform Act constitute a clear judgment that the water supply of California and the Delta ecosystem are "…in crisis and existing Delta policies are not sustainable." The Legislature's findings and declarations (Water Code section 85001) include:

(a) The Sacramento-San Joaquin Delta watershed and California's water infrastructure are in crisis and existing Delta policies are not sustainable. Resolving the crisis requires fundamental reorganization of the state's management of Delta watershed resources….

(b) In response to the Delta crisis, the Legislature and the Governor required development of a new long-term strategic vision for managing the Delta. The Governor appointed a Blue Ribbon Task Force to recommend a new "Delta Vision Strategic Plan" to his cabinet committee, which, in turn, made recommendations for a Delta Vision to the Governor and the Legislature on January 3, 2009.

(c) By enacting this division, it is the intent of the Legislature to provide for the sustainable management of the Sacramento-San Joaquin Delta ecosystem, to provide for a more reliable water supply for the state, to protect and enhance the quality of water supply from the Delta, and to establish a governance structure that will direct efforts across state agencies to develop a legally enforceable Delta Plan.

Statutory Adoption of Coequal Goals

Additionally, the Legislature advanced several broad goals, including the *coequal goals*, a concept central to understanding the Delta Reform Act and the state's policy for the Delta (§ 29702):

(a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.[11]

(b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.

(c) Ensure orderly, balanced conservation and development of Delta land resources.

(d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

[11] Identical language is found in Water Code section 85054, and other references are also found in law.

Statutory Adoption of Objectives Inherent in Coequal Goals

These coequal goals are further expressed in the eight policy objectives set forth in the Delta Reform Act, which "the Legislature declares are inherent in the coequal goals for management of the Delta" (Wat. Code § 85020):

(a) Manage the Delta's water and environmental resources and the water resources of the state over the long term.

(b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

(c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.

(d) Promote statewide water conservation, water use efficiency, and sustainable water use.

(e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

(f) Improve the water conveyance system and expand statewide water storage.

(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.

(h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

The Act establishes new policies – including reduced reliance on the Delta in meeting California's future water supply needs in the future through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency (Wat. Code § 85021). The Act explicitly does not change a number of existing laws – such as area of origin, watershed of origin, county of origin, or any other water rights protections (Wat. Code § 85301(a)), or the California Endangered Species Act (Wat. Code § 85032(b)), among others. It also affirms "The longstanding constitutional principle of reasonable use and the public trust doctrine shall be the foundation of state water management policy and are particularly important and applicable to the Delta." (Wat. Code § 85023).

The Delta Stewardship Council and its Mission

The Delta Reform Act creates the Council as an independent agency of the state (Wat. Code § 85200). SBX7 1 also revises the Public Resources Code (§ 29702 through 29780, and adds Division 22.3, specifying changes to the DPC and creating the Delta Conservancy. The Delta Reform Act gives the Council several responsibilities, many linked to a comprehensive "Delta Plan," which the Council is charged to develop, adopt, and commence implementation of by January 1, 2012. The Council is also charged with developing an Interim Plan "…that includes recommendations for early actions, projects, and programs" (Wat. Code § 85084). Although no legislative deadline was given, the Council has set

August 27, 2010, as the date for adoption of the Interim Plan, recognizing the pressing obligation of meeting the legislative Delta Plan deadline. Both the DPC and Delta Conservancy are given roles with respect to the management of the Delta and providing input to the Delta Plan.

Consideration of Early Actions in the Interim Plan

The Act discusses "early actions" in Water Code sections 85080 through 85089, assigning several to other agencies. The Council completed the only required early action solely within its powers by appointing a Delta Independent Science Board on June 24, 2010 (Wat. Code § 85080).

The Council also has basis to make recommendations on early actions called for in Water Code section 85084. The Council has initiated processes to advance other early actions, including:

- To assist in meeting its responsibilities as a responsible agency and its appellate role for the BDCP, the Council has defined its role in relationship to the BDCP steering committee and has selected a consultant to provide advice specific to BDCP.
- The Council has initiated relationships with other federal, state, and local agencies, making progress on the requirements of Water Code section 85082 (engaging federal agencies) and section 85204 (establishing an agency coordination group), among others.

Some early actions identified in the Act and assigned to other agencies include dates for completion (July 2010 through December 2010), but most are ongoing actions or projects with no specified completion date. In all cases, it will take time and effort to understand these and other proposed projects within the new context of the Act. Recognizing that it will be required to make recommendations on a wide range of activities before adoption of the Delta Plan by January 2012, the Council concluded that the Interim Plan must provide a framework to guide its actions during this period. It is the intent of the Council that this Interim Plan will provide an effective framework within which the Council can consistently assess and prioritize important issues until the Delta Plan is adopted. The Council intends to use the eight policy objectives (Wat. Code § 85020) as a foundation for the framework. Although the framework may transition smoothly for use in the Delta Plan, the Interim Plan will not provide the Council a basis for decision making of equivalent impact as will a Delta Plan adopted after completing environmental review processes.

Successful implementation of new legislation as substantial as SBX7 1 requires not only launching new entities and activities but also adjusting the roles and activities of existing agencies operating under different authorities, with separate legislative mandates, funding streams, and constituencies. All affected state and local agencies have responsibility now to undertake activities in conformity with the Act.

In addition to providing a framework for the Council's actions, this Interim Plan is intended to inform the actions of agencies as they incorporate provisions of SBX7 1 into their activities until the Delta Plan is adopted. Council work on "early actions" will appropriately continue under the framework of the Interim Plan and on the schedule established in the Council's work plan. The Council intends to give highest priority to issues that require consideration regardless other actions involving major ecosystem restoration or conveyance improvements, or decisions made on new bonds.

Work on the Delta Plan has begun while the Interim Plan is being finalized. The Council has decided to structure both documents around the common set of policy objectives contained in Water Code section 85020, and the Delta Plan is expected to build on the Interim Plan.

Section 2. Uses of the Interim Plan

The Interim Plan is intended to have three uses. First, it would serve as the primary framework for the Council until the Delta Plan is adopted and implementation begins. Second, it would inform and assist the Council with its responsibilities in relation to other agencies, as required in SBX7 1 or elsewhere. Third, it would provide linkage to the Delta Plan by establishing legal authority, work processes and procedures, and ways to build effective relationships.

Framework for Early Actions

The Interim Plan outlines processes the Council would use to develop its recommendations for early actions, projects, and programs. Many early actions identified in SBX7 1 are assigned to other agencies, but the Interim Plan can, in most cases, inform the work of other agencies as the Delta Plan is developed. The Interim Plan also informs actions of the Council and how the Council would deal with the issues required in the Delta Plan. Early actions identified in the Act include:

- Recommendations for new Delta flow criteria assigned to the DFG for recommendations in section 85084.5, including "…quantifiable biological objectives for aquatic and terrestrial species of concern dependent on the Delta," and a report by the SWRCB in section 85086(c)(1)
- Responsibilities of the DWR under section 85085, including:
  - Efforts to cooperate in the construction and implementation of the Two-Gates Fish Protection Demonstration Project by December 1, 2010
  - Evaluating the effectiveness of the Threemile Slough Barrier project
  - Proceeding with other near-term actions as identified in the *Delta Vision Strategic Plan*, including ecosystem restoration opportunities such as improved floodplain in the Yolo Bypass and improved emergency preparedness and response
  - Assisting in implementing early action ecosystem restoration projects, including tidal marsh restoration in Dutch Slough and on Meins Landing
- Preparation of a proposal to coordinate flood and water supply operations of the SWP and the federal CVP (Wat. Code § 85309), for which DWR has lead responsibility
- Review of the report of the DPC regarding potential changes in the Primary and Secondary Zones of the Delta, in light of the coequal goals and the mandates of the Act
- Completion of the economic sustainability plan by the DPC no later than July 1, 2011 (Pub. Resources Code § 29759) to be reviewed by the Council for consistency with the Delta Plan (§ 29761.5(b))
- Development of the DPC's proposal "…to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals" (Wat. Code § 85301)

Inform Council Responsibilities and Recommendations

The Interim Plan outlines how the Council will provide advice to—or review of the recommendations of—other agencies, including:

- Advice to local and regional planning agencies (Wat. Code § 85212)
- Review and approval of Proposition 1E expenditures for selected projects (§ 83002 (a)(1)) not already funded or completed under this program

Additionally, the Interim Plan includes important organizational and procedural matters that would assist the Council in its role as a responsible agency in development of the EIR for BDCP (§ 85320(c)) and potentially as an appellate body regarding the DFG determination of whether BDCP has met specified criteria (§ 85320(e)).

The Council will be asked to comment on projects and plans affecting the Delta that are undergoing environmental review, and those reviews should be based on the full range of policy objectives and responsibilities included in the Act. The Council has directed staff to develop procedures for this purpose; these draft procedures are included in Appendix A of this Interim Plan.

Provide Linkage to the Delta Plan

The Interim Plan provides a framework for Council operations during the development of the Delta Plan, and many aspects of this framework should continue after the Delta Plan is adopted. The legal authority provided in the Act should be used consistently both before and after the Delta Plan is adopted. Second, the Council work processes described and defined by the Interim Plan should continue with minimal modification in the Delta Plan. Third, the relationships developed with other agencies under the Interim Plan should remain effective as the Delta Plan is implemented.

Section 3. Interim Plan Processes

Neither statutes nor plans are self-executing; they require focused and sustained actions by responsible public agencies for success. This section of the Interim Plan outlines procedures and processes the Council would use, many of which can carry forward to implementation of the Delta Plan and can also serve to structure the Council's work in developing the Delta Plan.

To effectively meet its responsibilities and manage its work flow, the Council would develop: [12]

- Provisions for amendment at the Council's discretion
- A plan to engage agencies whose activities are related and affected by the requirements of SBX7 1 with the goal of effective communication of the activities of the Council under the Act
- Formalized procedures for core responsibilities of the Council, included in Appendix A
- A formal annual or biannual work plan for Council implementation
- Structured decision processes, which may vary by categories of decisions

Provision for Amendment

This Interim Plan can be amended by majority vote of the Council membership at any regularly scheduled meeting of the Council.

Engage and Establish Working Relationships with Agencies

The Delta Reform Act includes provisions requiring the Council to engage state, local, and federal agencies and establishes processes to that end. Outreach to agencies whose activities are affected by SBX7 1 will begin under the Interim Plan and will continue during implementation of the Delta Plan.

The statutory requirements for working with other agencies include:

> 85082. The council shall develop and implement a strategy to appropriately engage participation of the federal agencies with responsibilities in the Delta. This strategy shall include engaging these federal agencies to develop the Delta Plan consistent with the federal Coastal Zone Management Act of 1972 (16 U.S.C. Sec. 1451 et seq.), the federal Clean Water Act (33 U.S.C. Sec. 1251 et seq.), and Section 8 of the federal Reclamation Act of 1902.
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> 85204. The council shall establish and oversee a committee of agencies responsible for implementing the Delta Plan. Each agency shall coordinate its actions pursuant to the Delta Plan with the council and the other relevant agencies.

[12] Additional implementation features will be developed in the Delta Plan, including for adaptive management responsive to Water Code Section 85308(f).

85212. The council shall review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents, including sustainable communities strategies and alternative planning strategies prepared pursuant to Section 65080 of the Government Code, with the Delta Plan. The council's input shall include, but not be limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resource protection are sufficient to meet the Delta's ecosystem needs. A metropolitan planning organization preparing a regional transportation plan under Section 65080 of the Government Code that includes land within the primary or secondary zones of the Delta shall consult with the council early in the planning process regarding the issues and policy choices relating to the council's advice. No later than 60 days prior to the adoption of a final regional transportation plan, the metropolitan planning organization shall provide the council with a draft sustainable communities strategy and an alternative planning strategy, if any. Concurrently, the metropolitan planning organization shall provide notice of its submission to the council in the same manner in which agencies file a certificate of consistency pursuant to Section 85225. If the council concludes that the draft sustainable communities strategy or alternative planning strategy is inconsistent with the Delta Plan, the council shall provide written notice of the claimed inconsistency to the metropolitan planning organization no later than 30 days prior to the adoption of the final regional transportation plan. If the council provides timely notice of a claimed inconsistency, the metropolitan planning organization's adoption of the final regional transportation plan shall include a detailed response to the council's notice.

85225. A state or local public agency that proposes to undertake a covered action, prior to initiating the implementation of that covered action, shall prepare a written certification of consistency with detailed findings as to whether the covered action is consistent with the Delta Plan and shall submit that certification to the council.

85225.5. To assist state and local public agencies in preparing the required certification, the council shall develop procedures for early consultation with the council on the proposed covered action.

85300. (a) …The Delta Plan may also identify specific actions that state or local agencies may take to implement the subgoals and strategies.

(b) In developing the Delta Plan, the council shall consult with federal, state, and local agencies with responsibilities in the Delta. All state agencies with responsibilities in the Delta shall cooperate with the council in developing the Delta Plan, upon request of the council.

85301. (a) The [Delta Protection] commission shall develop, for consideration and incorporation into the Delta Plan by the council, a proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals. For the purpose of carrying out this subdivision, the commission may include in the proposal the relevant strategies described in the Strategic Plan.

(b) (1) The commission shall include in the proposal a plan to establish state and federal designation of the Delta as a place of special significance, which may

include application for a federal designation of the Delta as a National Heritage Area.

(2) The commission shall include in the proposal a regional economic plan to support increased investment in agriculture, recreation, tourism, and other resilient land uses in the Delta. The regional economic plan shall include detailed recommendations for the administration of the Delta Investment Fund created by section 29778.5 of the Public Resources Code.

(c) For the purposes of assisting the commission in its preparation of the proposal, both of the following actions shall be undertaken:

(1) The Department of Parks and Recreation shall prepare a proposal, for submission to the commission, to expand within the Delta the network of state recreation areas, combining existing and newly designated areas.

The proposal may incorporate appropriate aspects of any existing plans, including the Central Valley Vision Implementation Plan adopted by the Department of Parks and Recreation.

(2) The Department of Food and Agriculture shall prepare a proposal, for submission to the commission, to establish market incentives and infrastructure to protect and enhance the economic and public values of Delta agriculture.

(d) The commission shall submit the proposal developed pursuant to subdivision (a) to the council. The council shall consider the proposal and may include any portion of the proposal in the Delta Plan if the council, in its discretion, determines that the portion of the proposal is feasible and consistent with the objectives of the Delta Plan and the purposes of this division.

85305. (a) The Delta Plan shall attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments.

(b) The council may incorporate into the Delta Plan the emergency preparedness and response strategies for the Delta developed by the California Emergency Management Agency pursuant to section 12994.5.

85306. The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and nonproject levees.

85307. (a) The Delta Plan may identify actions to be taken outside of the Delta, if those actions are determined to significantly reduce flood risks in the Delta.

(b) The Delta Plan may include local plans of flood protection.

(c) The council, in consultation with the Department of Transportation may address in the Delta Plan the effects of climate change and sea level rise on the three state highways that cross the Delta.

(d) The council, in consultation with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission, may incorporate into the Delta Plan additional actions to address the needs of Delta energy development, energy storage, and energy distribution.

85309. The department, in consultation with the United States Army Corps of Engineers and the Central Valley Flood Protection Board, shall prepare a proposal to coordinate flood and water supply operations of the State Water Project and the federal Central Valley Project, and submit the proposal to the council for consideration for incorporation into the Delta Plan. In drafting the proposal, the department shall consider all related actions set forth in the Strategic Plan.

85320. (a) The Bay Delta Conservation Plan (BDCP) shall be considered for inclusion in the Delta Plan in accordance with this chapter….

(c) The department shall consult with the council and the Delta Independent Science Board during the development of the BDCP. The council shall be a responsible agency in the development of the environmental impact report. The Delta Independent Science Board shall review the draft environmental impact report and submit its comments to the council and the Department of Fish and Game.

(d) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with § 2800) of Division 3 of the Fish and Game Code, the council shall have at least one public hearing concerning the incorporation of the BDCP into the Delta Plan.

(e) If the Department of Fish and Game approves the BDCP as a natural community conservation plan pursuant to Chapter 10 (commencing with § 2800) of Division 3 of the Fish and Game Code and determines that the BDCP meets the requirements of this section, and the BDCP has been approved as a habitat conservation plan pursuant to the federal Endangered Species Act (16 U.S.C. § 1531 et seq.), the council shall incorporate the BDCP into the Delta Plan. The Department of Fish and Game's determination that the BDCP has met the requirements of this section may be appealed to the council.

(f) The department, in coordination with the Department of Fish and Game, or any successor agencies charged with BDCP implementation, shall report to the council on the implementation of the BDCP at least once a year, including the status of monitoring programs and adaptive management.

(g) The council may make recommendations to BDCP implementing agencies regarding the implementation of the BDCP. BDCP implementing agencies shall consult with the council on these recommendations. These recommendations shall not change the terms and conditions of the permits issued by state and federal regulatory agencies.

85350. The council may incorporate other completed plans related to the Delta into the Delta Plan to the extent that the other plans promote the coequal goals.

Actions to Engage Agencies

The Council will meet the specific requirements for engaging other agencies and will also seek their contribution to developing and implementing first the Interim Plan and then the Delta Plan. The following actions anticipated go beyond the specific requirements of the Delta Reform Act.

Table 3-1
Actions in Addition to Requirements of the Delta Reform Act

Action	Comment
Initiate contact with agencies, including personal contact and written communications	In progress.
Establish agency coordination group required under Water Code section 85204	Initiate in third quarter 2010; structure to contribute to development of Delta Plan and related environmental documents during 2010 and 2011, to address issues arising in implementation of the Delta Plan thereafter, and in adaptive management processes no later than 2017.
Engage federal agencies	Federal agencies are authorized to participate in California Bay-Delta programs under Public Law 108–361 (2004). Relationships established under CALFED before passage of SBX7 1 are being reviewed and adjusted as appropriate. The Interim Federal Action Plan for the California Bay-Delta (December 22, 2009) provides a basis on which to engage federal agencies.
Establish early consultation processes	Procedures for early consultation appropriate to the Interim Plan as a framework document are included below and in Appendix A. Further development of procedures appropriate for use regarding covered actions (Wat. Code § 85225.5) will occur in the Delta Plan.
Develop Delta Plan consistent with the Coastal Zone Management Act (CZMA) (or equivalent), Clean Water Act, and Reclamation Act (Wat. Code § 85082)	Anticipated in development of the Delta Plan; requires discussion with federal agencies and also state agencies with CZMA designations.

Policies and Procedures

Among the core responsibilities of the Council, early attention will be given to its responsibilities related to reviews of proposed actions and plans. As discussed in Section 2 of this Interim Plan, the Council will be making recommendations on several issues before adoption of the Delta Plan. High priority should be given to establishing systems and processes that establish effective relationships with state and local agencies whose actions and plans are relevant to the roles of the Council. The Council should adopt

procedures regarding receipt and processing of information and requests, including forms for use in submitting materials, expected to be similar to those currently used by state, regional, and local governments. Appendix A includes five types of procedures, some of which are under development:

- The adopted procedures on Council meetings
- A statement of procedures for bringing actions before the Council
- Administrative procedures for appeals and reviews

Work Plan

A formal work plan provides the structure by which the Council uses its resources most effectively and manages relationships with others to achieve its goals. A work plan is especially important for a newly created agency requiring selection among possible activities and focus on achieving a defined set of activities. The work plan can be brief or extensive but serves to focus energy, communicate intent to others, and provide accountability.[13]

Items are added to the work plan and assigned a target date for action by the Council. In time, the work plan is likely to include regularly scheduled events, such as annual updates in the tools identified in Section 5, or reports on the policy implications of biannual Delta science conferences. Consideration of items and scheduling for consideration should include consultations with other agencies, perhaps including the committee of agencies required under Water Code section 85204.

Decision Processes

As a newly created body, the Council was required to adopt its own rules under the enabling legislation. See Appendix A.

In addition, Council decisions should adhere to these principles and procedures:

- The Council would hear “conceptual” proposals as informational items at its discretion but would not act on conceptual proposals nor would the Council issue “in concept” approvals.
- The Council would adhere to robust procedures to ensure transparency and adequate opportunities for interested parties and the public to participate in decision making, including availability of information related to a decision well before the meeting at which it is considered.
- The Council will use the best available science.
  - The Council should rely heavily on the Delta Science Program and the Delta Independent Science Board in determining the relevance, value, and reliability of the best available science and in organizing that information for use in its decisions. The Council has the final responsibility in determining the best available science used in support of its actions, including when a choice among competing interpretations of available science must be made.

[13] The San Francisco Bay Conservation and Development Commission provided monthly updates on its strategic plan as a form of a work plan. http://www.bcdc.ca.gov/reports/strategic_status_rpt.pdf. For a highly detailed work plan that focuses on transportation projects, see that developed annually by the Southern California Association of Governments, which includes several hundred pages of text and an associated budget. http://www.scag.ca.gov/owp/index.htm.

  - Best available science is specific to a decision context and would necessarily be related to the specific decision to be made and the time frame available for that decision. There is no expectation of delaying decisions to await improved science. Action may be taken based on incomplete science if it is the best available.
  - Best available science used by the Council shall be developed and presented in a transparent manner including clear statements of assumptions, conceptual models, methods used, and conclusions. Sources of data used shall be cited and analytic tools used identified.
  - Best available science changes over time and the Council may revisit any prior decision at its discretion upon making a judgment of material change in the best available science relevant to that decision. The following section elaborates on the characteristics of best available science.
- Consideration of any project or decision against all eight policy objectives in accordance with basic legal authorities as summarized by Appendix D.
- Consideration of technical and legal feasibility, consistency or conflicts with other programs, and ability to implement in timely manner for a specified schedule.
- Use of the seven framework tools as a basis for analysis and development of performance measures.
- Commitment to make progress on all eight policy objectives over roughly similar time frames, with roughly equivalent certainty regarding effectiveness.
- The Council will issue specific written findings and decisions as required by law or otherwise within its discretion.

Best Available Science

Best available science must be consistent with the scientific process.[14] The scientific process described below includes steps for achieving best science, guidelines and criteria, effective communication and documentation, and process for reviewing scientific rationale for the proposed Interim Plan Early Actions. Ultimately, best available science requires the best scientists using the best information and data to assist management and policy decisions. The processes and information used should be clearly documented and effectively communicated.

Steps for Achieving Best Science

Science consistent with the scientific process includes the following elements: clearly stated objectives, a conceptual model, a good experimental design with standardized methods for data collection, statistical rigor and sound logic for analysis and interpretation, and clear documentation of methods, results, and conclusions. The best science is transparent; it clearly outlines assumptions and limitations. The best science is also reputable; it has undergone peer review conducted by active experts in the applicable field(s) of study. Scientific peer review addresses the validity of the methods used, the

[14] Sullivan, P. J., J. M. Acheson, P. L. Angermeier, T. Faast, J. Flemma, C. M. Jones, E. E. Knudsen, T. J. Minello, D. H. Secor, R. Wunderlich, and B. A. Zanetell. 2006. *Defining and implementing best available science for fisheries and environmental science, policy, and management*. American Fisheries Society, Bethesda, Maryland, and Estuarine Research Federation, Port Republic, Maryland. Available from http://www.fisheries.org/afs/docs/policy_science.pdf (accessed July 2010).

adequacy of the methods and study design in addressing study objectives, the adequacy of the interpretation of results, whether the conclusions are supported by the results, and whether the findings advance scientific knowledge.[15]

There are several sources of scientific information and trade-offs associated with each.[16] The primary sources of scientific information, in order of most to least scientific credibility for informing management decisions, include: Independently peer-reviewed publications including journal publications and books (most desirable); general reports and publications; science expert opinion; and anecdotal evidence (Table 3-2.) Each of these sources of scientific information may be the best available at a given time, containing varying levels of understanding and uncertainty. These limitations shall be clearly documented when used to inform decisions.

Table 3-2

Prioritized List of Sources of Science from Most to Least Scientific Credibility

Sources with more "scientific credibility" are at the top of the list.[17]

Source	Content	Review Level	Timeliness	Availability
Peer-reviewed publications	New findings	Formal, independent external	Slow to medium	Broadly available
General scientific reports and publications	Standard reports and analyses	Informal, internal/external	Medium	Available from source
Science expert opinion	Opinion and broadly held understanding	Through reputation only	Fast	Available from individuals and groups
Anecdotal evidence	Personal observations and beliefs	Limited to none	Fast	Available from individuals and groups

Guidelines and Criteria

As recommended by the 2004 National Research Council Committee on Defining the Best Scientific Information Available for Fisheries Management (NRC report), the application of the best available science into natural resource management is best defined as a process that requires guidelines and criteria.[18] Major findings and recommendations in the NRC report support the establishment of procedural guidelines over creating a statutory definition of "best available science" as the best means

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[15] Sullivan et al., 2006.

[16] Sullivan et al., 2006; Ryder, D.S., M. Tomlinson, B. Gawne, and G.E. Likens. 2010. *Defining and using 'best available science': a policy conundrum for the management of aquatic ecosystems.* Marine and Freshwater Research 61: 821-828.

[17] Adapted from Sullivan et al., 2006.

[18] National Research Council, Committee on Defining the Best Scientific Information Available for Fisheries Management. 2004. *Improving the use of "Best Scientific Information Available" Standard in Fisheries Management.* National Academy Press, Washington D.C. Available from http://www.nap.edu/catalog.php?record_id=11045#toc (accessed July 2010).

for creating accountability and enhancing the credibility of scientific information used in natural resource management. The committee recommended implementation guidelines to govern the production and use of scientific information for ensuring "best scientific information available" in fisheries management. The guidelines were based on six broad criteria and are applicable to the use and evaluation of "best available science" in natural resource management at large. These six criteria are (1) relevance, (2) inclusiveness, (3) objectivity, (4) transparency and openness, (5) timeliness, and (6) peer review.

The recommended guidelines and criteria in the NRC report are consistent with the criteria developed by the Legislature of the State of Washington for assessing "best available science." The State of Washington requires counties and cities to include the "best available science" in developing policies and regulations pursuant to the Washington State Growth Management Act. The State of Washington criteria include six characteristics for a valid scientific process: (1) peer review, (2) methods, (3) logical conclusions and reasonable inferences, (4) quantitative analyses, (5) context, and (6) references.[19]

For the purpose of informing Council decisions, "best available science" for Delta-related activities should be consistent with the guidelines and criteria developed by the NRC and the State of Washington. Proposed early actions, projects, and programs should document that the science used follows the guidelines adapted from the NRC report as they apply to the Delta ecosystem:

- **Relevance.** Scientific information used should be germane to the Delta ecosystem attribute and/or biologic organism (and/or process) affected by the proposed early actions, projects, and programs. Analogous information from a different region, but applicable to the Delta ecosystem and/or biota may be the most relevant when Delta-specific scientific information is non-existent or insufficient. The quality and relevance of the data and information used shall be clearly addressed.

- **Inclusiveness.** Scientific information used shall incorporate a thorough review of all relevant information and analyses across all relevant disciplines. There are many analysis tools available to the scientific community.[20] Careful consideration of the suite of possible relevant analysis tools shall be explored and justification for the methods selected shall be documented. Consideration of the variability of available information shall be incorporated with clear documentation of the uncertainty, level of review, citations, and availability of the information.

- **Objectivity.** Data collection and analyses considered shall meet the standards of the scientific method and be void of non-scientific influences and considerations.[21]

- **Transparency and Openness.** The sources and methods used for analyzing the science used shall be clearly identified. The opportunity for public comment on the use of science in the proposed early actions, projects, and programs is recommended. Limitations of research used shall be clearly

[19] Washington Administrative Code (WAC) 365-195-900. Available from http://apps.leg.wa.gov/wac/default.aspx?cite=365-195-900 (accessed July 2010); Washington Administrative Code (WAC) 365-195-905. Available from http://apps.leg.wa.gov/wac/default.aspx?cite=365-195-905 (accessed July 2010).

[20] McGarvey, DJ. 2007. “Merging Precaution with Sound Science under the Endangered Species Act.” Bioscience 57: 65-70.

[21] NRC 2004; Sullivan et al., 2006.

identified and explained. If a range of certainty is associated with the data and information used, a mechanism for communicating uncertainty shall be employed.[22]

- **Timeliness.** There are two main elements of timeliness: (1) data collection shall occur in a manner sufficient for adequate analyses before a management decision is needed, and (2) scientific information used shall be applicable to current situations. Timeliness also means that results from scientific studies and monitoring may be brought forward before the study is complete to address management needs.[23] In these instances, it is necessary that the uncertainties, limitations, and risks associated with preliminary results are clearly documented.

- **Peer Review.** The quality of the science used would be measured by the extent and quality of the review process. Independent external scientific review of the science is most important because it ensures scientific objectivity and validity.[24] The following criteria represent a desirable peer review process:[25]

  - Independent External Reviewers. A qualified independent external reviewer embodies the following qualities: (1) has no conflict of interest with the outcome of the decision being made, (2) can perform the review free of persuasion by others, (3) has demonstrable competence in the subject as evidenced by formal training or experience, (4) is willing to utilize his or her scientific expertise to reach objective conclusions that may be incongruent with his or her personal biases, and (5) is willing to identify all costs and benefits of ecological and social alternative decisions.

  - When to Conduct Peer Review. Independent scientific peer review shall be applied informally or formally to early ideas and initial draft plans, formally to written review once official draft plans or policies are released to the public, and formally to final released plans.

  - Coordination of Peer Review. Independent peer review shall be coordinated by entities and/or individuals that (1) are not a member of the independent scientific review team, (2) have a particular and special expertise in the subject under review, and (3) have had no direct involvement in the particular actions under review.

Effective Communication and Documentation

The application of the guidelines and criteria for best available science should be clearly communicated within a proposed early action, project, or program. Documentation of how scientific information is produced, validated, and applied to management decisions will improve the accountability and transparency of the proposed early action, project, or program.[26] The documentation should include clarity in the use of terms and information, even if those terms are commonly used (e.g. 'monitoring'

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[22] Lukey, J.R., S.S. Crawford, and D. Gillis. 2009. "Effect of Information Availability on Assessment and Designation of Species at Risk". *Conservation Biology.* In review.

[23] NRC, 2004.

[24] Meffe, G.K., P.R. Boersma, D.D. Murphy, B.R. Noon, H.R. Pulliam, M.E. Soule, and D.M. Waller. 1998. "Independent Scientific Review in Natural Resource Management." *Conservation Biology*. 12: 268-270.

[25] Adapted from Meffe et al., 1998.

[26] NRC, 2004.

and 'assessment').[27] Documentation of the explicit uncertainty in results, the sources of uncertainty, and an assessment of the relative risks associated with a range of alternatives or management options should be documented in proposed early actions, projects, and programs.[28]

Process for Reviewing Scientific Rationale for Proposed Interim Plan Early Actions

The Delta Science Program should engage in reviewing the scientific information and the use of science in proposed early actions, projects, and programs specified in statute or received by the Council from external entities. The goal of the review is to ascertain the quality of the underlying science used and documented in the proposed early action, project, or program and determine the likelihood of success in achieving the associated expected outcome(s) based on the underlying science. The Delta Science Program should perform an internal review of the early action's use of scientific information pursuant to the elements of best science and the extent to which the science meets the Council's guidelines and criteria for best available science. The review process would yield the following possible determinations regarding the scientific rationale for the proposed early action, project, or program: (1) adequate for informing decision making regarding an early action, (2) adequate provided that the Delta Science Program's recommended modifications are made, and (3) not ready to inform decision making on an early action. The Delta Science Program can engage and organize external reviewers and peer review panels to perform additional reviews for modified proposed early actions as necessary.

Basis for Identifying Actions

In adopting this Interim Plan, the Council also conveys its commitment to meeting its obligations under the Delta Reform Act. An important issue concerns actions that may meet the tests of "covered actions" under statute but cannot be formally considered by the Council until a Delta Plan is adopted. Many ongoing processes include activities that may be covered actions. As the Council develops the Delta Plan, it may be expected to consider all ecosystem restoration, water conveyance, and flood management proposals advanced in the state and local public policy processes of the past 5 years (e.g., the Ecosystem Restoration Program of the DFG, the BDCP, the Suisun Marsh Plan, or FloodSAFE). Moreover, to satisfy Water Code section 85300, the Council will "…consider each of the strategies and actions set forth in the [Delta Vision] Strategic Plan and may include any of those strategies or actions in the Delta Plan." This is a long list of activities and more are likely to exist or be proposed before the Delta Plan is adopted.

Identification of an action as plausibly a "covered action" that may be included in the Delta Plan does not automatically require that it be "stopped" until the Delta Plan is completed. It does mean that the action should be considered within the legal framework of SBX7 1.This Interim Plan recognizes that the initial responsibility for determining whether an activity meets the definition of a covered action lies with responsible agencies, subject to other provisions of law. . Processes for consultation with the Council and its staff regarding how to handle possibly covered actions under the Interim Plan are detailed below.

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[27] Ryder et al. 2010.

[28] NRC, 2004.

Definition of Covered Actions

SBX7 1 (Wat. Code § 85057.5) defines a covered action as a plan, program, or project that meets all of the following conditions:

1. Will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh
2. Will be carried out, approved, or funded by the state or a local public agency
3. Is covered by one or more provisions of the Delta Plan
4. Will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta

Exclusions and Savings Clauses

SBX7 1 includes specific exclusions from the Delta Plan (listed in Wat. Code § 85057.5(b)). Some exclusions blanket a class of continuing actions (e.g., a regulatory action of a state agency or routine maintenance and operation of any facility…owned and operated by a local agency, Wat. Code § 85057.5(b)(1) and (5)). Other exclusions are defined as reaching a particular point in time, including Water Code section 85057.5(b)(6) and (7):

> (6) Any plan, program, project, or activity that occurs, in whole or in part, in the Delta, if both of the following conditions are met:
>
> (A) The plan, program, project, or activity is undertaken by a local public agency that is located, in whole or in part, in the Delta.
>
> (B) Either a notice of determination is filed, pursuant to Section 21152 of the Public Resources Code, for the plan, program, project, or activity by, or the plan, program, project, or activity is fully permitted by, September 30, 2009.
>
> (7) (A) Any project within the secondary zone, as defined pursuant to Section 29731 of Public Resources Code as of January 1, 2009, for which a notice of approval or determination pursuant to Section 21152 of the Public Resources Code has been filed before the date on which the Delta Plan becomes effective.
>
> (B) Any project for which a notice of approval or determination is filed on or after the date on which the final Bay Delta Conservation Plan becomes effective, and before the date on which the Delta Plan becomes effective, is not a covered action but shall be consistent with the Bay Delta Conservation Plan.
>
> (C) Subparagraphs (A) and (B) do not apply to either of the following:
>
> (i) Any project that is within a Restoration Opportunity Area as shown in Figure 3.1 of *Chapter 3: Draft Conservation Strategy* of the Bay Delta Conservation Plan, August 3, 2009, or as shown in a final Bay Delta Conservation Plan.
>
> (ii) Any project that is within the alignment of a conveyance facility as shown in Figures 1 to 5, inclusive, of the *Final Draft Initial Assessment of Dual Delta Water Conveyance Report*, April 23, 2008, and in future revisions of this document by the department.

(c) Nothing in the application of this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. The Act also includes "savings" clauses asserting that certain specified statutes are not changed by any provision of the Act (listed in Wat. Code § 85031 and 85322).

Agency Processes for Possible Covered Actions, including Consultations

Bracketed language is subject to change to conform to administrative procedures governing appeals, which will be considered for adoption at the September 2010 Council meeting.

[If an agency correctly determines a proposed action satisfies one of the exclusion or savings clause provisions, it may choose not to consult with the Council and may proceed with the action complying with relevant sections of SBX7 1 and other applicable state laws.

A state or local agency contemplating approving or undertaking a project that is potentially or clearly a covered action may contact the Council staff for an early consultation. These consultations should have the goal of understanding the congruence of the proposed action with the Act, using this Interim Plan as the framework for any Council recommendations. Those recommendations should not be binding but should be of value to provide clarification to agencies as to whether or not the Act does potentially apply to a proposed activity and in identifying where such activities appear to comport with provisions of SBX7 1 and where they may encounter potential inconsistencies. The Council's recommendations should not constitute a determination of consistency with, or an exemption from, the yet-to-be adopted Delta Plan. Moreover, any decision may be appealed to the Council by a third party after the Delta Plan is adopted.]

Value of Effective Working Relationships, Transparency, and Engagement

The Council seeks strong working relationships with agencies and stakeholders. The relationships developed as the Delta Plan is written and in working through issues under the Interim Plan should be important to the long term relationships of the Council, other agencies, stakeholders, and the public. The Council's goal is to develop an effective Delta Plan that can also serve as many of the missions and goals of other agencies as possible within SBX7 1. Important components of those effective working relationships are procedures that ensure transparency and robust procedures for early consultation that are used consistently.

Finally, implementation requires full consideration of public input. Opportunities will be provided for the public to engage in the development and implementation of the Delta Plan.

Section 4. Council Review Process for Early Actions (Wat. Code § 85084)

Water Code section 85084 requires the Council to adopt an "…interim plan that includes recommendations for early actions, projects, and programs." No deadline is provided for completion of the Interim Plan, and no statutory guidance given regarding selection of "early actions, projects, and programs." However, the discussion of "early actions" in multiple arenas before this legislation was adopted suggests attention to "urgent" issues that should be addressed before the Delta Plan is adopted by January 1, 2012. This meaning is consistent with the brief discussion in the available legislative history.[29]

Several early actions are specified in the statute and others have been advanced that appear to require urgent attention as the Delta Plan is being developed. Table 4-1 below lists the early actions, starting with those identified in statute. For those in statute, a code section is provided. For all, a responsible agency or proponent is identified, a status report provided, and a schedule proposed for consideration by an "early actions" committee established by the Council and the full Council. More detail on the processes proposed and an application form that project proponents may complete to inform decision making are presented in Tables 4-1 and 4-2, and Appendix B.

A recommendation by the council for early action is intended to address the urgency of the Delta crisis consistent with SBX7 1, and does not mean that the action will necessarily be included in the Delta Plan, or is otherwise exempt from the definition of "covered action" or the provisions governing the consistency of state and local public agency actions with the Delta Plan, once it is adopted (Water Code section 85225 et seq.).

29. The full text discussing early actions is: "Early Actions: This bill identifies a series of actions that existing and new agencies need to take as soon as possible – before the Council completes its new Delta Plan. Some actions are administrative. Others are substantive projects for the Delta ecosystem and/or water supply reliability. The early actions part communicates the urgency of responding to the Delta crisis, without waiting for the completion of the new Delta plan." http://www.assembly.ca.gov/acs/newcomframeset.asp?committee=26.

Table 4-1

Specific Early Actions Identified in the Statute

Water Code Section[1]	Action	Responsible Agency or Agencies	Status	Potential Council Committee Consideration (2010)	Potential Council Action (2010)
85080	Appoint Independent Science Board	DSC	Completed		June
85082	Engage federal agencies	DSC	Initiated		
85084	Interim Plan	DSC	Complete August 27, 2010		August
85084.5	DFG recommend Delta flow criteria and quantifiable biological objectives, by November 2011	DFG		September	October
85085	DWR shall do all of the following:				
85085 (a)	Coordinate with others to implement Two-Gates Project by December 1, 2010	DWR		September	October
85085 (b)	Evaluate effectiveness of Threemile Slough Project	DWR		September	October
85085 (c)	Expeditiously move forward with other near term actions identified in the Strategic Plan (listed below)	DWR		September	October
85085 (d)	Assist in implementing early action ecosystem restoration projects including, but not limited to, Dutch Slough and Meins Island	DWR		September	October
85086 (a)	The board shall establish effective system for watershed diversion data collection and data collection and public reporting by 12.31.10)	SWRCB		September	October
85086 (b), (c),(d), (e)	Establish instream flow needs for the Delta ecosystem to facilitate planning required to achieve objectives of the Delta Plan	SWRCB		September	October
85087	The board shall submit a prioritized schedule and budget to complete instream flow studies (in cooperation with DFG) by 12.31.10	SWRCB		September	October

1

Table 4-2

Initial Early Actions Identified by Others to be Considered in October and November 2010

Water Code Section[1]	Action	Responsible Agency or Agencies	Status	Potential Council Committee Consideration (2010)	Potential Council Action (2010)
Emergency preparation and management (additional to those above)					
	Delta Flood Emergency Preparedness and Response Plan	Cal EMA, USACE, DWR, RDs, five Delta counties		October	November
	Delta Region Flood Emergency Response Exercise	Cal EMA, DWR in cooperation with other agencies		October	November
	Manage levees and land uses to reduce flood risk and preserve options for flood plain function	DWR and RDs (levees), five Delta counties, DPC, and other state agencies (funds, permits)		October	November
Ecosystem restoration (additional to those above)					
	Fish screens, various programs (e.g., Sherman and Twitchell Islands, DFG "Fish Screen and Passage Program")	DFG, USBR, USFWS, others		October	November
Water supply reliability (additional to those above)					
	Local and state contingency plans for loss of Delta water supplies and/or drought (includes Drought Contingency Plan) and changes in programs and regulations to support needed adaptations	DWR, local water districts		October	November
Effective policies and programs under SBX7 1					
	Develop articulation of roles in Suisun Marsh and potential CZMA designation	Council, BCDC		October	November

Table 4-2

Initial Early Actions Identified by Others to be Considered in October and November 2010

Water Code Section[1]	Action	Responsible Agency or Agencies	Status	Potential Council Committee Consideration (2010)	Potential Council Action (2010)
	Commence review of DPC Land Use and Resource Management Plan to Council responsibilities until Delta Plan adopted	Council, DPC		October	November
	Engage state agencies	DSC	Initiated		
	Engage local agencies	DSC		September	

Notes:

[1] From SBX7 1

RD = Reclamation District

USACE = U.S. Army Corps of Engineers

Section 5. Analytical Tools for Council Action under the Sacramento-San Joaquin Delta Reform Act of 2009

Section 4 outlined processes the Council would use to provide recommendations on early actions, projects, and programs, and manage its work flow to meet its responsibilities. The goal of this section is to provide a framework for organizing information as a basis for Council action in a wide range of activities under the Interim Plan, some unknowable at this time. Some of the information included is the responsibility of other agencies, but important to the Council meeting its responsibilities. The organization proposed would facilitate communication of measurable progress in meeting the requirements of SBX7 1. The next section outlines procedural steps in Council decision making.

The framework would utilize tools with which to organize and assess critical information. The following seven tools are provided for informational purposes. Figures and tables are included in this section from previously published documents for illustrative purposes, only. The Council has received specific suggestions to change this information. However, because this information is provided for illustrative purposes, only, modifications were not completed. Specific tools and data will be collected and analyzed as part of the Delta Plan preparation.

- Delta water flows
- Delta ecosystem restoration plan
- Indicators of progress in meeting California's future water supply needs on a regional basis
- Map and table of current levee system integrity
- Map of planned Delta land uses
- Finance plan
- Incorporation of science

These seven tools focus on core responsibilities of the Council to achieve the coequal goals and organize much of what would be required for decision making. They do not include all elements required for Council action. The tools miss some dimensions of economic sustainability in the Delta and of progress in implementing improved governance, for example. An effective graphic for some tools can be used to communicate effectively with those relevant to the work of the Council, from agencies to a broad public. Although the graphics are presented here in hard copy, the intent is for these to be digital maps that are updated on a regular basis and that provide links to related information and/or sources.

None of the tools would be fully developed by August 27, 2010, when the Interim Plan is scheduled to be adopted by the Council. However, even in incomplete form, they would inform Council work under the Interim Plan and may be amended over time.

Delta Water Flow

The Delta flow criteria developed by the SWRCB under Water Code section 85086 with contributions of the DFG under section 85084.5 were adopted on August 6, 2010. Over time, additional information on flows would be developed, including whatever results from the BDCP, plus the additional instream flow studies required by section 85087. The SWRCB has adopted a Strategic Workplan that lays out a sequence of additional work relevant to understanding and regulating water flows. Among these, water quality requirements must be incorporated by the SWRCB under section 85086 and can be updated as those regulations change. The Delta Plan must include plans to "… promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals" (§ 85304).

Delta Ecosystem Restoration Plan

Actions taken to restore the Delta ecosystem are expected to include at least changes in water flows, water quality, and land forms and uses (§ 85023, 85084.5, 85302(c)(e)). The CALFED Ecosystem Restoration Program provides tools and processes for evaluating and guiding decision making about restoration actions under the Interim Plan. These include the program's Strategic Plan and the Delta Regional Ecosystem Restoration Implementation Plan conceptual models. Summary information on progress on ecosystem restoration will not be easily captured in maps, so other graphic formats will be required. One option is to organize reports in bar chart formats or line graph by performance measures. The *Delta Vision Strategic Plan* includes approximately 40 ecosystem performance measures,[30] more than can be easily understood in public policy making processes, but they are organized around five policy strategies. To the extent possible, these (or other) measures of ecosystem function can be combined into summary indices, maintaining the detailed information for use when needed.

Indicators of Progress in Meeting California's Future Water Supply Needs on a Regional Basis

This tool is intended to summarize progress in satisfying Water Code section 85021, which states: "The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts." This would require information about the regional efforts listed, and the graphic on statewide diversions developed for the *Delta Vision Strategic Plan* (included here as Figure 5-1) is illustrative as an effective graphic that the Council could use as a possible starting point to demonstrate regional progress toward self-sufficiency.

[30] See *Delta Vision Strategic Plan* performance measures for Goal 3, "Restore the Delta ecosystem as the heart of a healthy ecosystem," pages 67-91. Delta Vision Blue Ribbon Task Force, 2008.

Figure 5-1

Statewide Upstream and Export Diversions from the Delta Watershed (Illustrative)

Source: Delta Vision Strategic Plan, 2008

Map and Table of Current Levee System Integrity

All current human uses of the Delta lands require a certain level of protection against river flooding, sea level rise, and earthquakes. To that end, continued state investment in levees under the DWR Subvention Program is expected, for example, and warrants support.

The Interim Plan must ensure progress toward congruence between the uses and resources at risk and the levees that provide protection. Existing levees have been developed over decades, initially without design standards and then to a succession of standards developed by federal and state agencies. Local reclamation districts, local engineers, and local land owners responsible for much maintenance of levees are interested participants in the evolution of levee standards. Pending the development of more detailed information on levee conditions and policies required under section 85306, this Interim Plan uses the levee classification system initiated during development of the *Delta Vision Strategic Plan*, and now modified for use by DWR and others. This classification table, Table 5-1, organizes levee standards from lowest to highest levels of protection offered. As noted in one comment received on the second draft Interim Plan, there is no levee classification specific to those levees playing a role in water supply.

Table 5-1 shows all nine classes of levees currently used in discussions of Delta levee policies. Levee improvement activities are now particularly dynamic, with evolving thought (especially by DWR) toward implementing approaches as mandated by recent legislation, recognition of special problems (such as seismic vulnerability), recent program changes (such as FEMA's levee recertification requirement) and the availability of additional resources from Propositions 84 and 1E.[31] Two classifications identify changes required or underway:

- **Legacy Towns (Class 5).** As a result of the emphasis on maintaining the unique culture of the Delta and also because several communities in the Delta may not requalify for FEMA certification, and because of increased awareness of Delta seismic vulnerability, protection for small Delta communities with distinct natural, agricultural, and cultural heritage (Legacy Towns or Legacy Communities) is receiving attention. The specific approach has not yet been established, but could include increased freeboard (3 feet) for protective PL 84-99 Delta Specific or non-urban project levees and might include special levee configurations such as ring levees. Additional design features must be considered to provide life-safety protection in the event of major levee failures from earthquake or other causes.

- **Urban Project Levees (Class 7-8).** With the passage of Senate Bill 5 mandating 200-year flood protection for urban areas and the availability of resources through bond funding, FloodSAFE has initiated an aggressive program of levee improvement focused on state-federal flood control Project levees that protect urban and urbanizing areas. An urban area is defined as a developed area in which there are 10,000 residents or more. An urbanizing area is a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the next 10 years. DWR/FloodSAFE (2009) has issued "Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees." These criteria not only require 200-year flood protection, they also require consideration of seismic stability under a 200-year earthquake. Specifically:

[31]. Department of Water Resources. "Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees. Third Draft." http://www.water.ca.gov/floodsafe/docs/Third_Draft_Interim_Levee_Design_Criteria_(May_15,_2009).pdf

> "For levees subject to seasonal high water that are planned for repair or improvement and that are also found to be vulnerable to seismic damage, the repair or improvement alternative that is most resistant to seismic damage and/or easily and economically repaired following an earthquake should be selected over other cost-comparable alternatives (e.g., a berm is preferable to a cost-comparable slurry wall). If seismic damage is expected after all 200-year flood improvements are in place, a post-earthquake remediation plan will be required for quickly restoring the levee system's grade and dimensions sufficient for protection against the 10-year flood, with 3 feet of freeboard, or higher as needed for 10-year wave run up. To the extent that seismic damage to the levee system would be so significant and widespread that it would be infeasible to restore 10-year protection within a few months, seismic strengthening may be required for 200-year certification. Levees subject to frequent high water, such as many levees in the Delta, would need seismic stability sufficient to maintain a 10-year level of flood protection during and immediately after the earthquake."

Based on this approach, two "seismic" levee classifications have been identified – one for repairable levees (to be partially repaired after seismic damage before the next flood season) and the other for robust levees, designed to survive the earthquake retaining an acceptable portion of their flood protection capability. Incorporating seismic risks into levee designs is important in the Delta as recognized in interim design criteria being developed by DWR. This is a challenging task as there is limited experience with the performance of levees designed to these standards.

Levee classifications are used to judge whether existing or contemplated land uses are appropriately protected and Table 5-1 illustrates such relationships. Estimates of current levels of protection for each actual area of the Delta must be developed based on the best information available. In the Delta Plan, a wide range of land uses will be considered to develop long-term approaches for levels of protection.

Table 5-1

Delta Levees Classification and Suitability

Delta Levee Suitability						
Delta Levee Classification	**Description**	**Habitat**	**Agricultural**	**Infrastructure**	**Populated**	**Adopted or Proposed Design Criteria**
Class 1	No Design Requirement[1]	√	●	Not suitable (N/S)	(N/S)	Typical height is less than 8 feet. Crest width is 12 feet or less. Exterior and interior slopes, assume 2H:1V. No seismic capability. Freeboard varies but levee is usually overtopped for water level with 1% annual frequency (i.e., 100-year average return period or 100-year flood). Expect frequent failure.
Class 2	HMP[2]	√	*	●	(N/S)	16 foot crest width. All-weather patrol road. Exterior slope (1.5H:1V). Interior slope (2H:1V). Marginal static stability (FS = 1.1+/-). No seismic capability. Freeboard = 1.0 foot (for water level with 1% annual frequency or 100-year flood).
Class 3	PL 84-99 (DS)[3]	√	√	*	(N/S), ●[4]	16 foot crest width. All-weather patrol road. Exterior slope (2H:1V). Interior slope (2H:1V to 5H:1V), based on levee height and depth of peat. Static stability (FS = 1.25). Levee toe drain 30 feet landward. Essentially no seismic capability. Freeboard = 1.5 feet (for 1% annual frequency or 100-year flood).

Table 5-1

Delta Levees Classification and Suitability

Delta Levee Suitability						
Delta Levee Classification	**Description**	**Habitat**	**Agricultural**	**Infrastructure**	**Populated**	**Adopted or Proposed Design Criteria**
Class 4	PL 84-99 (Non-urban, Project Levee)	√	√	*	(N/S), ●[4]	16 foot crest width. All-weather patrol road. Exterior slope (2H:1V). Interior slope (generally 3H:1V or less steep), based on USACE original site-specific design. Static stability (FS = 1.4+). Levee toe drain or seepage control berm. Very little seismic capability. Freeboard = 1.5 feet (for 1% annual frequency or 100-year flood), possibly with additional freeboard for waves.
Class 5 (under development)	Legacy Town	√	N/A			Not yet established. Major issues need to be resolved.
Class 6	FEMA - 100 Yr[5]	√	√	*	*	16 foot crest width. All-weather patrol road. Toe drain. Exterior Slope (2H:1V). Interior Slope (varies, stability/seepage, 3H:1V to 5H:1V). Static stability (FS = 1.4 to 1.9). Seepage exit gradient ≤ 0.5. (FS and Seepage per USACE documents). Very little seismic capability. Freeboard = 3.0+ feet (for 1% annual frequency or 100-year flood).
Class 7 (under development,	DWR - 200 Yr Urban (Seismic Repairable)[6]	√	√	√	√	Designed per DWR "Proposed Interim Levee Design Criteria for Urban and Urbanizing

Table 5-1

Delta Levees Classification and Suitability

Delta Levee Suitability						
Delta Levee Classification	**Description**	**Habitat**	**Agricultural**	**Infrastructure**	**Populated**	**Adopted or Proposed Design Criteria**
SB 5 requires; in use for early implementation funding)						Area State-Federal Project Levees" (3rd draft, May 15, 2009). Freeboard approx 3.0 feet (for 0.5% annual frequency or 200-year flood). Seismic design for 200-year earthquake; if hydraulically loaded only seasonally, must be repairable for 10% annual flood (i.e., 10-year flood) within a few months.
Class 8 (under development, SB 5 requires; in use for early implementation funding)	DWR - 200 Yr Urban (Seismic Robust)[6]	√	√	√	√	Designed per DWR "Proposed Interim Levee Design Criteria for Urban and Urbanizing Area State-Federal Project Levees" (3rd draft, May 15, 2009). Freeboard approx 3.0 feet (for 0.5% annual frequency or 200-year flood). Seismic design for 200-year earthquake; if subject to frequent high water (as in Delta), must be survive earthquake with flood protection for 10% annual probability (10-year) high water level.
Class 9	Seismic Super Levee	√	√	√	√	Wide crest (as much as 200 feet). All weather road(s) on crest. Other design factors similar to or stronger than seismically robust above.

Table 5-1

Delta Levees Classification and Suitability

Delta Levee Suitability						
Delta Levee Classification	**Description**	**Habitat**	**Agricultural**	**Infrastructure**	**Populated**	**Adopted or Proposed Design Criteria**

Notes:

1. Class 1 levees are expected to allow periodic flooding. They may serve the needs of habitat or some agriculture (e.g., pasture). There is no specific design criterion.
2. HMP indicates "Hazard Mitigation Plan" representing the minimum levee design requirement for an island to be eligible for Federal Emergency Management Agency disaster assistance.
3. PL84-99 (DS) indicates the USACE's "Delta Specific" design requirements issued in 1987 for eligibility in the PL 84-99 Rehabilitation and Inspection Program (RIP).
4. Class 3 and 4 levees are unsuitable for DWR-defined urban or urbanizing areas (population of 10,000 or more or expected to have 10,000 or more within the next 10 years). They have substantial residual risk of flooding and are of questionable suitability, even for lower levels of population.
5. FEMA - 100 Yr indicates the Federal Emergency Management Agency levee design requirement for excluding the protected area from the Flood Insurance Rate Map determination of the Special Flood Hazard Area (100-year floodplain).
6. For Class 7 & 8 levees DWR's draft interim 200-year design criteria for urban and urbanizing area project levees has been developed for use in implementing FloodSAFE projects, responsive to the requirements of Senate Bill 5 for 200-year protection.
7. ● indicates substantial residual risk of flooding, partly due to the multiple hazards unique to the Delta and considering the consequences of flooding to the indicated land use. Suitability is questionable and, at best, marginal.
8. ✻ indicates a significant residual risk of flooding and a basis for questioning suitability.
9. √ indicates "suitable," but even these levees have a residual risk of flooding.

Sources: (The list will be expanded with requests to agencies and interested parties)

1. Sacramento-San Joaquin Delta Atlas, California Department of Water Resources, Reprinted, July, 1975. http://baydeltaoffice.water.ca.gov/DeltaAtlas/index.cfm
2. Delta Risk Management Strategy Phase I, California Department of Water Resources, URS Corporation, Jack R. Benjamin Associates, Inc., February, 2009. http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1_information.cfm
3. Delta Risk Management Strategy Phase I, DRAFT Levee Optimization Spreadsheets (unpublished) 2008. (Information extracted and summarized from Phase 1 Technical Memoranda).
4. USGS 7.5 minute quadrangle 1:24000-scale topographic maps, various dates.
5. Google Earth (R) imagery and mapping, various dates.

Maps of Intensity of Land and Resource Uses

One of the primary goals of SBX7 1 is to achieve more effective integration of land and resource use policies in the Delta, reflected in the very first section of the act, Public Resources Code section 29702, every clause of which affects land and resource uses in the Delta and all of which are further developed in other sections of the Act:

> Section 29702. The Legislature further finds and declares that the basic goals of the state for the Delta are the following:
>
> (a) Achieve the two coequal goals of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem. The coequal goals shall be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.
>
> (b) Protect, maintain, and, where possible, enhance and restore the overall quality of the Delta environment, including, but not limited to, agriculture, wildlife habitat, and recreational activities.
>
> (c) Ensure orderly, balanced conservation and development of Delta land resources.
>
> (d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety.

Many plans and projects can affect the land forms and intensity of land and resource use in the Delta, including work on flood management policies affecting levees; flood ways and allowable land uses; patterns of land use allowed under the policies of the DPC and local governments; ecosystem restoration projects, including those in which the Delta Conservancy is a party; improved water conveyance; and other infrastructure investments. Among the existing plans shaping land uses in the Delta are county and city general plans and zoning, county Habitat Conservation Plans, and the DPC Land Use and Resource Management Plan, among others.

> The maps developed for use here must integrate the various policies affecting land uses in the Delta in one or more intelligible graphics showing land uses that will result from those policies. One possible way to do so is as one or more overlays on existing land uses. No existing Delta map has yet been identified to serve as a starting point for this graphic.

One approach to mapping is to work at two levels, first, Delta-wide to provide for overview and connectivity and, second, at a local level, where actions and proposals can be seen in detail.[32]

The maps for use by the Council should serve the following purposes:

- Transparency. Provide a quick reference to key features, proposals, and actions in play.

[32] An example of localized mapping can be seen in Bay Conservation and Development Commission's San Francisco Bay Plan, http://www.bcdc.ca.gov/laws_plans/plans/sfbay_plan.shtml.

- Explanation and clarification. Attempt to demystify the complexities of Delta planning and management. Provide links to further information.
- Geo-referencing. Show where things will happen in relation to each other, surrounding issues, and to Delta conditions.
- Connectivity. Show how proposals may be mutually supportive or possibly in conflict.
- Implications. Provide a vehicle for showing the location and implications of Delta Plan recommendations as they are developed; at a more precise level of detail than Delta-wide mapping and graphics.

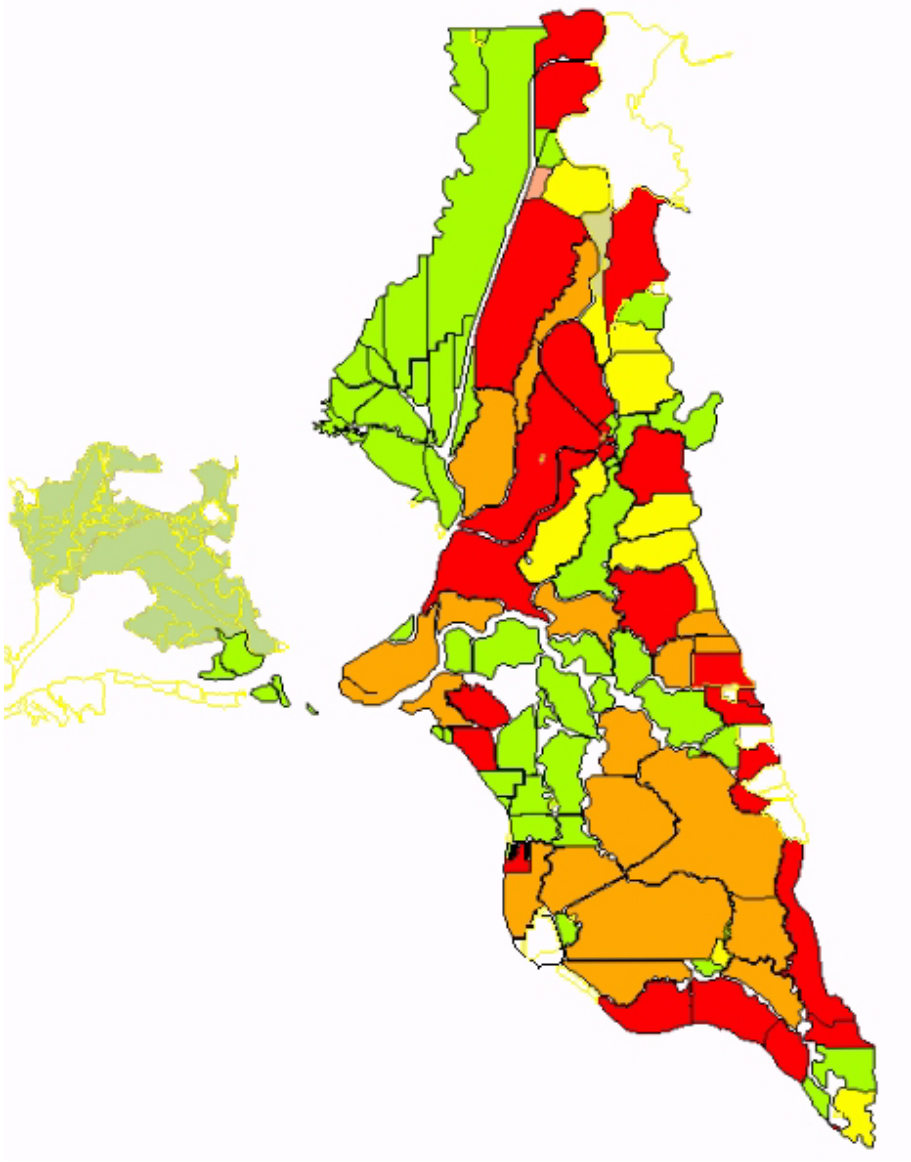
The following features could be represented by icons on the map and keyed to short descriptions with web links to reports or data:

- All proposed near-term actions
- BDCP or Ecosystem Restoration Program eco-restoration target areas
- Eco-restoration projects under way (levee breach experiments, shallow water habitat projects), including CALFED grant projects that have been geo-referenced with a link to reports and publications
- Levee design projects (e.g., Twitchell Island setback levee program)
- Water conveyance and management features (Delta Cross-channel, proposed temporary barriers, proposed gates)
- Water quality monitoring points
- Flow monitoring points
- Water intakes and diversion points
- Outfalls
- Recreation facilities
- Projects covered by BDCP (Isolated facility routes and intakes, barriers, pump upgrades, cooling water diversion)

The map in Figure 5-2 that follows summarizes available information on current intensity of land and resource uses, categorized in four groups reflecting increasing intensity/value of assets, applied at the level of islands.

Figure 5-2

Example of Current Simplified Intensity of Uses in the Delta and Suisun Marsh (DRAFT)



Symbol	Acronym	Intensity of Use
AC	Ag/Cons	Low: Ecosystem, recreation, extensive agriculture
IA	Intensive Ag/Infra	Moderate: Intensive agriculture, vineyards, orchards, less than 30 residences, flood-tolerant infrastructure
ARI	Ag/Res/Infra/Mixed	Significant: 30 to 100 residences, and/or State Highway, Railroad, or gas; flood-intolerant infrastructure
POP	Populated/Res/Coml	High: more than 100 residences and/or commercial or industrial uses
Blank	Blank	Further information needed (boundaries, nomenclature, recent changes)

Notes: This classification of intensity of use does not include the presence or absence of natural gas wells, as it assumed for this report that gas fields can withstand temporary inundation. Potential impacts of inundation on water quality and salinity intrusion, although important, are not included in this classification of use intensity.
Sources: Sacramento-San Joaquin Delta Atlas, DWR, Reprinted July, 1995. http://baydeltaoffice.water.ca.gov/DeltaAtlas/index.cfm Delta Risk Management Strategy Phase I, DWR, URS Corporation, Jack R. Benjamin Associates, Inc., February, 2009. http://www.water.ca.gov/floodmgmt/dsmo/sab/drmsp/phase1_information.cfm Delta Risk Management Strategy Phase I, DRAFT Levee Optimization Spreadsheets (unpublished) 2008. Intensive agriculture categories (vines, orchards, citrus) from: (1) California Department of Fish and Game digital files generated from vegetation mapping conducted between 2002 and 2005, derived from field data collected in the summer of 2005. The 2002 Stockton, Sacramento, and Delta High Resolution (1-foot) Orthoimagery and 2005 NAIP (1-meter) Orthoimagery served as the base; and (2) KML files generated from land use mapping by DWR in 2007, areas covered in the California Delta and Suisun Marsh, released by DWR in April, 2008. USGS 7.5 minute quadrangle 1:24,000-scale topographic maps, 35 maps, various dates; available on line at: http://bios.dfg.ca.gov/ Google Earth (R) imagery.

Over time, maps of intensity would be evaluated in relation to a map and table of levee system integrity to ensure progress toward congruence among uses, risks, and levels of protection.

Finance Plan

SBX7 1 does not address financing operations of the Council, the Delta Conservancy, or the DPC, nor does it provide financing for actions recommended by these entities. The Legislature may act on this issue separately, as seen in current consideration of AB 2092 (Huffman). The issue of adequate financing must be addressed. The *Delta Vision Strategic Plan* includes one strategy (7.3) and three related actions (7.3.1, 7.3.2, and 7.3.3)[33] that must be considered in developing the Delta Plan, but not necessarily included in the Final Delta Plan. The *Delta Vision Committee Implementation Report* supported strategy 7.3 but offered no comments on these (or any) actions.[34]

The Interim Plan can make progress on two important beginning points in a finance plan: (1) beginning to develop accurate and complete information on current finances and (2) initiating discussion of long-term financing to support activities under the Act.

No accurate and complete accounting of the finances of public activities in the Delta exists and the creation of the first compilation of these data should be given high priority. Table 5-2 begins this effort, drawing initially on a 2005 report of the Department of Finance Office of State Audits and Evaluations.[35] Additional data are being assembled to complete this table.

As with measures of ecosystem restoration, the useful graphic on existing finances here is unlikely to take the form of a map. Instead, some combination of bar charts and/or stacked trend lines that capture current financial flows by source and purpose and provide a good foundation for decisions about future financial investments is likely to be more useful.

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[33] Delta Vision Blue Ribbon Task Force. 2008. *Delta Vision Strategic Plan*. Pages 133-137.

[34] *Delta Vision Committee Implementation Report*. 2008. http://deltavision.ca.gov/DV_Committee/Jan2009/08-1231_Delta_Vision_Committee_Implementation_Report.pdf

[35] Department of Finance, Office of State Audits and Evaluations. *California Bay-Delta Authority Fiscal Review. 2005.* http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf

Table 5-2

Finances of Activities in the Delta (Under Development)

Expenditures in the Delta	Annual averages ($)				
	Prior to CALFED ROD (4 years)	Fiscal Years 00-01 through 03-04 **(First 4 years of ROD)**	**Fiscal Years 04-05 through 08-09**	**Budgeted Fiscal Year 09-10**	Proposed **Fiscal year 10-11**
Through CALFED/ Council					
Sources of financing					
State general fund (and other state funds)		56,770,245	81,662,090	13,405,835	13,710,835
State bonds		208,776,375	883,288,123	833,679,977	173,422,539
Water users/local funding		308,361,578	445,898,000[1,2]	0[3]	0
Federal government		60,613,750	427,035,719	81,040,221	135,509,000
Major uses of funds					
Water related		223,503,066	1,157,659,105	382,506,283	172,965,131
Ecosystem related		213,448,464	439,168,889	116,739,448	175,271,657
Levees		19,413,150	197,920,384	492,062,101	22,719,000
Oversight/coordination		7,080,189	42,919,986	10,099,000	13,823,000
Science		10,601,544	135,832,343	33,165,869	29,021,530
Uncategorized		26,379,850	11,497,720	11,214,000	23,214,000
Total, Through CALFED/Council	112,065,242	632,021,948	1,984,998,426	1,045,786,701	437,014,319
Other					
US Army Corps of Engineers, may be included above[4]					44,104,000
Local reclamation districts, estimated[5]					33,565,829
Other					

Notes:

1. The $445,898,000 figure representing Water Users/Local Funding under the 2004-05 through 2008-09 column represents only the 2004-05 fiscal year.
2. There is no systematic local funding data in the system post 2004-05. There is additional local funding reported in the 2006 and 2007 annual reports for the Water Use Efficiency Program Element: 2005-06 fiscal year reported $167,100,000 local funding; 2006-07 fiscal year reported $146,000,000 local funding.
3. The $0 dollar amounts representing Water Users/Local Funding for the 2009-10 and 2010-11 fiscal years is due to the following: (a) No local

funding data collected during these timeframes, (b) the SWP funding amounts are represented in the SWP funding source and the Central Valley Project Improvement Act funding amounts are represented in the federal government funding source.

4. Derived from US Army Corps of Engineers. *Fiscal Year 2001 Civil Works Budget for the U.S. Army Corps of Engineers Summary, February 2010.* Includes construction and operations and maintenance funds for projects apparently in the legal Delta (needs confirmation). http://www.usace.army.mil/CECW/PID/Documents/budget/budget2011.pdf. page 13.

5. Actual data requested from State Controller. This is estimate of 75 percent of total expenditures of all reclamation and levee districts in the state, less state funds received (to avoid probable double counting with bond funds above). State Controller. *Special Districts Annual Report, Fiscal Year 2008-09*, Table 9. http://www.sco.ca.gov/Files-ARD-Local/LocRep/0708specialdistrictosp.pdf.

Sources:

Columns 1-2: California Department of Finance. *A Fiscal Review of the CALFED Bay-Delta Program: Summary of Expenditures as of September 30, 2004*. http://www.dof.ca.gov/osae/audit_reports/documents/CBDA_Fiscal-Review_Final.pdf;

Columns 3-5: Provided by Council staff from CALFED Project Performance Information System, July 9, 2010.

A financing plan would be developed for consideration during development of the Delta Plan. The financing plan would contain options for support of the Council and the Science Program, the Delta Conservancy, program expenditures, and project funding.

The funding needed for the purposes associated with SBX7 1 is large. The *Delta Vision Strategic Plan* summarized information available in 2008 as follows: "These estimates by entities other than the Task Force suggest that capital expenditures required for the Delta in the next 10 to15 years could range from $12 billion to $24 billion, with a high estimate of $80 billion. The annual operating costs of the … Council are unknown."[36] The BDCP process has recently released updated estimates of the capital costs of alternative conveyance to range from $10 billion to $12 billion, an increase of at least 20 percent over estimates of 2008. Operations and maintenance would total an additional $586 million over 50 years. That same update includes an estimated ecosystem related projects total of $16.2 billion to $16.5 billion over 50 years, and a projected $231 million in expenditures for operations of the BDCP management entity.[37] The BDCP-projected ecosystem restoration costs should not be considered the total amounts needed for improved ecosystem restoration under SBX7 1, but rather a summation of ideas and proposals selected as components of the BDCP process.

Water Code section 85300(a) states the Council "…shall consider each of the strategies and actions set forth in the Strategic Plan and may include any of those strategies or actions in the Delta Plan..." The *Delta Vision Strategic Plan* and the *Delta Vision Committee Implementation Report* both include the same strategy regarding financing, "Strategy 7.3: Finance the activities called for in the California Delta Ecosystem and Water Plan from multiple sources." The *Delta Vision Strategic Plan* expanded on this strategy with three actions, the specifics of which would be considered in developing the finance plan:

> **Action 7.3.1:** Enact a series of principles regarding design of financing into legislation authorizing the California Delta Ecosystem and Water Council.
>
> **Action 7.3.2:** Establish a base of revenues outside the state General Fund for the work of the California Delta Ecosystem and Water Council, the Delta Conservancy, the Delta Protection Commission, and related core activities of the Department of Fish and Game, the Department of Water Resources, and the State Water Resources Control Board.

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[36] . Delta Vision Blue Ribbon Task Force, 2008. *Delta Vision Strategic Plan*, page 134.

[37] . Bay Delta Conservation Plan. Unedited Draft Chapter 8: Implementation Costs and Funding Sources. July 14, 2010. http://baydeltaconservationplan.com/SteeringCommitteeLibrary/7.15.10%20SC%20HO%20Chapter%208%20Implementation%20Cost.pdf

Action 7.3.3: Find new revenue sources beyond the traditional bond funds or public allocations.

To initiate the analysis, the following three alternative scenarios and others will be explored:[38]

- Existing financing sources (assuming no replacement of existing bond financing)
- Enhanced financing reliant solely on general fund and other broad-based funding sources, such as additional general obligation bonds
- Enhanced financing with significant portions of the total funds (including revenue bonds) coming from users; such funding may be based on stressors on the ecosystem, water supply, and other facilities, and will consider those who benefit directly

Existing financing sources (assuming no replacement of existing bond financing)

As shown in Table 5-2, current funding for the Council includes almost $14 million from the state general fund (and other state funds), considerably reduced from appropriations from this source under CALFED (approximately four times larger in fiscal years 01 through 04 and six times as large in fiscal years 05 through 09). State bonds support more than $173 million in CALFED expenditures, and the federal government supports another $136 million. The state bond expenditures are substantially reduced from prior levels and the federal expenditures are lower than the peak, but higher than two earlier periods. Data for financing from water users and local funding is no longer systematically collected, but it has represented large amounts of funding in the past.

Looking forward, it is well known that the general fund of the state is structurally imbalanced, with the Legislative Analyst projecting "…a stubborn annual gap between current-law revenues and expenditures of about $20 billion for each year through at least 2014-15."[39] Given this projected deficit, general fund appropriations for the Council and activities related to implementation of SBX7 1 would be very challenging for several years.

California voters approved seven resources bonds between 1996 and 2006, totaling almost $21 billion, but almost $17 billion of these bonds have been obligated. Much of the remaining funds available for appropriation are targeted on flood management under Proposition 1E (about $1.5 billion) and water quality and water management (including about $750 million from Proposition 84).[40] This suggests that bond funding would continue to be available for these areas of activity related to the Council's responsibilities and SBX7 1, but would diminish over time. Arithmetically, the level of state bond appropriations projected for fiscal year 2011-12 could be sustained for approximately 13 years.

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[38] . An overview of financing issues is presented in Legislative Analyst's Office. *Delta Vision: Financing Issues*. Presented to the Assembly Water, Parks and Wildlife Committee. February 24, 2009.

[39] :Legislative Analyst's Office, Legislative Office Staff. 2010. *March 2010 Fiscal Update*. http://www.lao.ca.gov/analysis/2010/2010_pandi/fiscal_update_memo_031910.pdf. page 4.

[40] Legislative Analyst's Office. *The 2010-11 Budget: Resources and Environmental Protection.* 2010. http://www.lao.ca.gov/analysis/2010/resources/res_anl10.pdf.

Enhanced financing reliant solely on general fund and other broad-based funding sources, such as additional general obligation bonds

Given the analysis above regarding the structural deficit in the general fund and the weak state of the California economy, for the foreseeable future it is unrealistic to expect enhanced financing based solely on the general fund. This statement applies also to other broad-based funding sources, such as general obligation bonds. The delay of a vote on the water bond included in the November 2009 legislative package is evidence of this reality.

Enhanced financing with significant portions of the total funds (including revenue bonds) coming from users; such funding may be based on stressors on the ecosystem, water supply, and other facilities, and would consider those who benefit directly

Funding derived from users has long been a feature of water project funding, and some ecosystem restoration has been funded as mitigation for projects, including water projects. The *Delta Vision Strategic Plan* and the *Delta Vision Committee Implementation Report* both advocate user financing of activities. As seen in Table 5-2, expenditures funded by water users and local sources provided hundreds of millions annually for CALFED projects. At a smaller scale, existing county Habitat Conservation Plans in the Delta rely on mitigation fees for ecosystem restoration. User funding for core policy making and science, or securing sufficient funding for large-scale ecosystem restoration, has not been easy, however. Notably, the Legislature failed to include funding sources in SBX7 1.

However, there is growing attention to fees in state finance, as evidenced in this recommendation by the Legislative Analyst to policy makers considering budget solutions: "Are there ways to minimize the programmatic effect? For instance, are fees or other alternative revenues potentially available?"[41]

Several fee proposals have been advanced; some workable package of such fees must be developed to support implementation of SBX7 1. In the past few years, scientific understanding of the range of actions that affect water flows and ecosystem function in the Delta has become more sophisticated. Increased scientific understanding also has revealed a higher number of stressors on the Delta. This affords opportunities for more effectively achieving the coequal goals and also for developing a financing system. A user-based funding system that includes some broad measures of resource use and also targets specific stressors for fee payments is a possible starting point that can be adjusted over time based on experience gathered on the amounts of revenue generated and the effects of fees on behaviors.

Incorporation of Science

The Delta Reform Act includes provisions for a Delta Independent Science Board, a lead scientist, and a Delta Science Program (Wat. Code § 85280). The Council appoints members of the Delta Independent Science Board and, in consultation with that board, the lead scientist for the Delta Science Program.

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[41] . Legislative Analyst's Office. *Overview of the Economy, Revenues, and Spending.* June 3, 2010. http://www.lao.ca.gov/handouts/conf_comm/2010/060310_Conference_Committee.pdf.

The work of these bodies becomes a foundation upon which not only the Council, but other agencies, businesses, and individuals understand the Delta and inform discussions of strategies and actions intended to achieve various policy goals. This is succinctly stated in the Delta Reform Act:

> 85280(a)(3) The Delta Independent Science Board shall provide oversight of the scientific research, monitoring, and assessment programs that support adaptive management of the Delta through periodic reviews of each of those programs that shall be scheduled to ensure that all Delta scientific research, monitoring, and assessment programs are reviewed at least once every four years.
>
> (4) The Delta Independent Science Board shall submit to the council a report on the results of each review, including recommendations for any changes in the programs reviewed by the board….
>
> (b) (4) The mission of the Delta Science Program shall be to provide the best possible unbiased scientific information to inform water and environmental decisionmaking in the Delta. That mission shall be carried out through funding research, synthesizing and communicating scientific information to policymakers and decisionmakers, promoting independent scientific peer review, and coordinating with Delta agencies to promote science-based adaptive management. The Delta Science Program shall assist with development and periodic updates of the Delta Plan's adaptive management program.

Over time, the body of scientific understanding of the Delta and of the effects of various policies have powerful effects in shaping policy making options. This was demonstrated under the CALFED Science Program and is expected to continue, where activities such as the Biennial Bay-Delta Science Conference stimulate public discussion of recent scientific work and publication of the bimonthly *Science News* and occasional major syntheses such as *The State of Bay-Delta Science, 2008,* make the science more accessible to policy makers and stakeholders.

Acronyms and Abbreviations

Act	SBX7 1, enacted in November 2009. See below.
BDCP	Bay-Delta Conservation Plan
Council	Delta Stewardship Council
CVP	Central Valley Project
Cal EMA	California Emergency Management Agency
CZMA	Coastal Zone Management Act
Delta	Sacramento-San Joaquin River Delta and Suisun Marsh (Wat. Code § 85058)
Delta Reform Act	Sacramento-San Joaquin Delta Reform Act of 2009, Division 35 of the Water Code (§ 85000 through 85350)
Delta watershed	Sacramento River hydrologic region and the San Joaquin River hydrologic region as described in DWR's Bulletin No. 160-05 (Wat. Code § 85060)
DFG	California Department of Fish and Game
DPC	Delta Protection Commission
DWR	California Department of Water Resources
EIR	Environmental Impact Report
EIS	Environmental Impact Statement
FEMA	Federal Emergency Management Agency
NOAA	National Ocean and Atmospheric Administration
NRC	National Research Council
Reclamation	U. S. Bureau of Reclamation
ROD	Record of Decision
SBX7 1	Senate Bill 1 of the 2009-10 7th extraordinary session, including revisions to Public Resources Code regarding the Delta Protection Commission at sections 29702 through 29780, adding Division 22.3 (commencing with § 32300) to the Public Resources Code creating the Delta Conservancy, and adding Division 35 (commencing with § 85300) to the Water Code, the Sacramento-San Joaquin Delta Reform Act of 2009
Strategic Plan	Both the *Delta Vision Strategic Plan* (2008) and the *Delta Vision Implementation Report* (2008) (Wat. Code § 85067)

SWP	State Water Project
SWRCB	California State Water Resources Control Board
USACE	U.S. Army Corps of Engineers
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
USGS	U.S. Geological Survey
UWMP	urban water management plan

Appendices

Appendix A. Council Policies and Procedures

Formal policies and procedures are considered and adopted by the Council and are included in this Interim Plan for reference only as they provide a basis for Council operations. These policies and procedures could continue after the Delta Plan is adopted, although they may be amended by Council action.

The following policies and procedures addressed in this appendix:

- A.1. Procedures for Delta Stewardship Council Meetings (Adopted)
- A.2. Procedures for Bringing Actions before the Council
- A.3. Delta Stewardship Council Administrative Procedures for Appeals and Reviews

A.1. Procedures for Delta Stewardship Council Meetings (Adopted by the Council on April 22, 2010)

1. **Purpose:** These procedures are adopted for the purpose of providing for the orderly and effective conduct of meetings of the Delta Stewardship Council (Council).

2. **Open Meetings**: All meetings of the Council will be conducted in accordance with the Bagley-Keene Open Meeting Act (Government Code Sec. 11120 et seq.). Meetings of the Council will be open to the public, except for such closed sessions as authorized by that act (e.g., personnel decisions, pending litigation).

3. Meetings will be webcast (and then archived on the Internet) or otherwise recorded electronically, subject to available funding and the proper functioning of equipment.

4. **Time and Place of Regular Meetings**: Unless otherwise specified, the Council will meet regularly, on the fourth Thursday and Friday of every month, at the Secretary of State's Office Auditorium at 1500 11th Street, Sacramento, California. At least two regular meetings will take place at an alternate location within the boundaries of the legal Delta or Suisun Marsh.

5. **Special and Emergency Meetings**: Under certain limited circumstances necessitating immediate action, as specified in the Bagley-Keene Act, the Council may convene a special or an emergency meeting in accordance with that act.

6. **Hearings**: The Council may hold hearings in all parts of the state necessary to carry out the powers vested in it, and for these purposes, has certain powers conferred upon the heads of state departments specified in law (Government Code Sec. 11180 et seq.). Any hearing by the Council may be conducted by any member, or other designee, upon authorization of the Council, and he or she will have all powers duly granted to the Council under law, provided that any final action of the Council will be taken by a majority vote of the membership of the Council at a regular meeting.

7. **Teleconference Meetings**: The Council may conduct audio or audio/visual teleconference meetings in accordance with the Bagley-Keene Act. When a teleconference meeting is held, each site that includes a member of the Council must be listed on the agenda and accessible to members of the public; all proceedings must be audible; and votes must be taken by roll call. The Council may also provide members of the public with additional locations from which the public may observe or address the Council by electronic means.

8. **Quorum/Voting**: A majority of the voting members of the Council will constitute a quorum for the transaction of the business of the Council. A majority vote of the voting membership is required to take action with respect to any matter. The vote of each member will be individually recorded. The board will not transact the business of the Council if a quorum is not present at the time a vote is taken; however, board members constituting less than a quorum may meet as a committee of the board and submit their recommendations to the board when a quorum is present.

9. **Election and Duties of Chair/Vice Chair:** Council members will elect a Chair and a Vice Chair from among the membership, each of whom will serve for not more than four years in that

capacity. The Chair will preside over all meetings of the Council, maintain orderly procedure in accordance with these procedures and applicable law and decide questions of procedure subject to appeal to the full membership. The Chair may vote on all matters before the Council, may participate in discussions relating to any matter, and may second any motion without relinquishing the chair. In the Chair's absence or inability to act, the Vice Chair shall preside.

10. **Attendance/Duties of Executive Officer, Chief Counsel, and Assistant to Council**: The Executive Officer, or an appropriate designee, will attend all meetings of the Council, and be prepared to advise the Council on all matters coming before it and for implementing all actions taken by the Council. The Chief Counsel, or an appropriate designee, will attend all meetings of the Council, and will act as parliamentarian and be prepared to advise the Council on questions of law. The Assistant to the Council, or an appropriate designee, will attend all meetings of the Council, facilitate orderly public comment through the use of speaker request forms, and maintain a full and complete record of all meetings and the vote of each member as required by law and these procedures.

11. **Required Notice/Agendas:** The Assistant to the Council will ensure that notices of regular meetings, along with agendas that sufficiently describe the items of business to be transacted or discussed, are posted on the Internet and mailed, as appropriate, at least 10 days in advance of the meeting. The Executive Officer will prepare agendas for the Council, working closely with the Chair and other members, and with the Chief Counsel, regarding closed session items. Action items of a routine nature may be bundled together as a single consent calendar item; provided that any member may remove any item from the consent calendar, to be discussed and voted upon separately at an appropriate place in the agenda determined by the Chair, and the Council will then approve the remainder of the consent calendar. At the discretion of the Council, all items appearing on the agenda, whether or not expressly listed for action, may be deliberated upon and may be subject to action by the Council. A public comment period will be included at the end of each agenda, during which time, members of the public may address the Council—subject to reasonable time limits set by the Chair-- on matters within its jurisdiction, but not listed for action or discussion on that agenda. Items may not be added to a posted agenda, except in limited circumstances necessitating immediate action, as specified in the Bagley-Keene Act.

12. **General Format for Agenda Item Discussion at Meetings:** (A) The Council will discuss agenda items in sequential order; provided that the Chair may take items out of sequential order to accommodate the public or expedite the conduct of the meeting; (B) The Chair will clearly announce the agenda item number and state what the subject is; (C) the Chair will then invite the appropriate persons to report on the item, including any recommendations they may have; (D) the Chair will ask members if they have any technical or other clarifying questions regarding the item; (E) the Chair will invite public comments on the item, and, if numerous members of the public wish to speak (as indicated by the number of speaker request forms submitted), may limit the time of each public speaker; (F) the Chair will invite a motion for the members, and announce the name of the member who makes the motion; (G) the Chair will determine if any member wishes to second the motion, and will announce the name of the member who seconds the motion. The Chair, in his or her discretion, may decide to proceed with consideration and a vote on the motion even when there is no second; (H) If the motion is made and seconded, the Chair will make sure that all members understand the motion; (I) the Chair will then invite

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discussion of the motion by the members; (J) the Chair will then take a vote, announce the results, and state what action (if any) the Council has taken.

13. **Overruling the Chair:** A decision of the Chair with respect to the interpretation or applicability of these procedures may be overruled by a majority vote of the membership of the Council.

14. **Robert's Rules:** If these procedures or the law do not clearly address a specific procedural situation, the Chair may refer to the current edition of Robert's Rules of Order for guidance.

A.2. Procedures for Bringing Actions before the Council

A variety of action items will be brought before the Council which relate to its statutory responsibilities under the Sacramento-San Joaquin Delta Reform Act of 2009 and other provisions of SBX7 1 of 2009.

The Council will establish procedures for orderly consideration of such items and procedures to bring items before the Council, including:

a. The Council agenda will be developed in this priority:

1. Legally required items
2. Items scheduled through the Council work plan
3. Recommendation by the Council chair, approved by a majority of Council members voting
4. Recommendations of Council members, approved by a majority of Council members voting

b. To ensure informed decision-making, the Council strongly encourages agencies to provide in a timely manner the following types of information in connection with any plan, policy or project (e.g., the economic sustainability plan prepared by the Delta Protection Commission under Public Resources Code section 29759 or local flood plans, transportation plans, or energy plans (Wat. Code § 85307), to be reviewed or evaluated by the Council:

1. Identification of the authority under which the plan, policy or program is proposed
2. Information on financing proposed activities, including indentifying sources of funding, public and private
3. Evidence of the status of all actions required by other governmental agencies for the proposed plan, policy or program to be implemented
4. Information needed to assess the proposed action's impact on all eight policy objectives enumerated in Water Code section 85020, minimally requiring information sufficient to assess impact on the performance measures of those eight policy objectives

c. For Council action on a project, the following information is recommended, to be provided in a form determined by the Council:

1. Identification of the project proponent and all parties with an economic interest in the project
2. Adequate locality, site, and project descriptions
3. A time schedule through full use of the proposed project
4. Evidence of completion of reviews and actions by other governmental agencies, including but not limited to environmental documentation, species protection, and land use permits
5. Information on financing of the proposed project, including any public funding, and adequate demonstration of the status of proposed funding. The financing plan should include ongoing operations and maintenance and information on planned financial coverage of contingencies for failure

6. Information needed to assess the proposed action's impact on all eight policy objectives enumerated in Water Code section 85020, including information sufficient to assess impact on the performance measures of those eight policy objectives

7. Any scientific and /or engineering assessments of the proposed action

8. For Council action approving allocation of Proposition 1E funds under Water Code 83002(a)(1), or similar actions,

   (a) Project applicants must agree to indemnify the State of California for general liability costs related to the project.

   (b) If there are 'real parties of interest' who benefit substantially from the project, the Council request that the benefitting parties be identified in the DWR report, and a clear statement made of what portion of the local share is being financed by that benefitted party.

   (c) The Department require other measures of project applicants which may reduce potential future liability, such as an annual notification to landowners of flood protection status.

A.3. Delta Stewardship Council Administrative Procedures for Appeals and Reviews

The language in this appendix is subject to change to conform to administrative procedures governing appeals, which will be considered for adoption at the September 2010 Council meeting.

This section contains three parts:

- Part I. Administrative Procedures Governing Appeals
- Part II. Statutory Provisions Requiring other Consistency Reviews
- Part III. Other Forms of Review or Evaluation by the Council

Part I. Administrative Procedures Governing Appeals

Introduction

1. Purpose. These administrative procedures govern how the Delta Stewardship Council considers appeals with regard to:

a) Adequacy of certifications of consistency with the Delta Plan submitted to the council by a state or local public agency pursuant to Water Code sections 85225.10 and 85225.30; and

b) Determinations by the Department of Fish and Game that the Bay Delta Conservation Plan has met the requirements of Water Code section 85320 for inclusion in the Delta Plan.

NOTE: Authority cited: Water Code sections 85001, 85020(h), 85022, 85057.5, 85200, 85210, 85212, 85225, 85225.5, 85225.10, 85225.15, 85225.20, 85225.25, 85225.30, 85300, 85320(e).

Review of certifications of consistency with Delta Plan

2. Any state or local public agency proposing to undertake a covered action, as defined in Water Code section 85057.5 is encouraged to consult with the council at the earliest possible opportunity, preferably no later than 30 days before submitting its certification to the council pursuant to Water Code section 85225, to ensure that the project will be consistent with the Delta Plan. The council's staff will meet with the agency's staff to review the consistency of the proposed action and to make recommendations, as appropriate. During this early consultation, the agency's staff may also seek clarification on whether the proposed project is a "covered action"; provided that the ultimate determination on whether it is a covered action shall be made by the agency, subject to judicial review.

NOTE: Authority cited: Water Code sections 85212, 85225, 85225.5, 85225.30.

3. At least 10 days prior to its submission of a certification to the council, a state or local public agency that is not subject to open meeting laws (that is, the Bagley-Keene Open Meeting Act [Gov.Code sec.11120 et seq.] or the Brown Act [Gov.Code sec.54950 et seq.]) with regard to its certification, shall post, for public review and comment, its draft certification conspicuously on its website and in its office,

mail it to all persons requesting notice, and include any public comments received in the record submitted to the council in the case of an appeal. A state or local public agency that is subject to open meeting laws with regard to its certification is encouraged to take those actions.

NOTE: Authority cited: Water Code sections 85225, 85225.30.

4. a) Any certification of consistency filed by a state or local agency pursuant to Water Code section 85225 shall set forth detailed findings that the covered action is consistent with the Delta Plan. The council shall prepare a checklist that agencies may use to assist them in preparing the certification and making the required findings.

b) A state or local agency shall submit to the council, no later than 10 days after receiving notice of an appeal pursuant to Paragraph 8, the record that was before the state or local agency at the time it made its certification, including a table of contents of documents contained therein and a brief chronology of events and actions relevant to the covered action. The record shall be certified by the state or local agency as being "full and complete." Given the tight, statutory deadlines for hearing and deciding appeals, a state or local agency is nevertheless strongly encouraged to submit the record at the time it files its certification of consistency, to ensure the opportunity for thorough review by the council in the event of an appeal.

c) The failure by a state or local agency to submit the record to the council on a timely basis as required by subparagraph (b), shall be grounds for the council to affirm the appeal on the basis that there was not substantial evidence presented to support the certification of consistency.

d) Any filings required by this Paragraph (4) shall be submitted in electronic form to facilitate availability and public access, and shall be public records.

NOTE: Authority cited: Water Code sections 85225, 85225.30.

5. Any person, including any member of the council or its executive officer, who claims that a proposed covered action is inconsistent with the Delta Plan and, as a result of that inconsistency, that action will have a significant adverse impact on the achievement of one or both of the goals of the Act or implementation of government sponsored flood control programs to reduce risks to people and property in the Delta, may file an appeal with regard to a certification of consistency submitted to the council no later than 30 calendar days after that submittal.

NOTE: Authority cited: Water Code sections 85225.10 (a), 85225.15, 85225.30.

6. The appeal shall clearly and specifically set forth the basis for the claim that the covered action is inconsistent with the Delta Plan. The appeal shall be in writing and set forth the following information:

a) Appellant's name and address;

b) The name and address of the party, if any, whose proposal is the subject of the appeal;

c) A description of the covered action that is the subject of the state or local public agency certification;

d) The identity of the state or local government body whose certification is being appealed;

e) The specific grounds for appeal; and

f) A detailed statement of facts on which the appeal is based.

The appeal shall be filed in electronic form.

NOTE: Authority cited: Water Code sections 85225.10 (b), 85225.30.

7. The appeal shall be considered "filed" with the council when the appellant's appeal is received, determined by staff to contain all of the information listed in Paragraph 6, and a hard-copy is printed and stamped "Filed" by the council staff with the date of filing indicated.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.30.

8. Within five working days of the filing of an appeal with the council, the executive officer shall:

a) Post a notice and brief description of the appeal and its effective date in a conspicuous location in the council's office and on its website;

b) Mail to the affected state or local public agency and to any third party whose proposal is the subject of the certification, a copy of the notice and a brief description, with a copy of the appeal documents filed with the council;

c) Mail copies of the appeal to each member of the council, and to the Delta Protection Commission for informational purposes consistent with Public Resources Code section 29773; and

d) Mail notice to the appellant that the appeal has been filed and stating the effective date of filing.

NOTE: Authority cited: Water Code sections 85225.30.

9. The council or its executive officer may request from the appellant further information necessary to clarify, amplify, correct, or otherwise supplement the information submitted with the appeal, within a reasonable period. The council or by delegation its executive officer may dismiss the appeal for failure of the appellant to provide information requested within the period provided, if the information requested is in the possession of or under the control of the appellant.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.25, 85225.30.

10. The council or its executive officer may supplement the record submitted by the state or local agency if the council or its executive officer determines that additional information was part of the record before the agency, but was not included in the agency's submission to the council.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.25, 85225.30.

11. The appellant, the state or local agency, the Delta Protection Commission, or any other person may testify before the council regarding an appeal. Presentations may be oral or in writing, shall address only whether the record supports the certification of consistency, and shall be as brief as possible. Written submissions should be provided to the council at least 10 days prior to the hearing to ensure that they, or in appropriate cases, summaries, may be circulated to council members for their review ahead of the hearing. The council's presiding officer may establish reasonable time limits for presentations.

NOTE: Authority cited: Water Code sections 85225.10, 85225.20, 85225.25, 85225.30.

12. All written submissions to the council may be in electronic form.

NOTE: Authority cited: Water Code section 85225.30.

13. The council shall hear all appeals of certifications of consistency filed pursuant to Water Code section 85225 within 60 days of filing unless:

a) The parties agree to a reasonable extension approved by the executive officer, taking into account the circumstances of the matter subject to appeal and the council's hearing schedule and associated workload, or

b) The council, or by delegation its executive officer, determines that the issue raised on appeal is not within the council's jurisdiction or does not raise an appealable issue.

NOTE: Authority cited: Water Code sections 85225, 85225.20, 85225.30.

14. The council shall make its decision on the appeal within 60 days of hearing the appeal, and shall make specific written findings defining the covered action under review and either denying the appeal or remanding the matter to the state or local public agency for reconsideration of the covered action based on the finding that the certification of consistency is not supported by substantial evidence in the record before the state or local public agency that filed the certification.

NOTE: Authority cited: Water Code sections 85225.20, 85225.25, 85225.30.

15. No covered action which is the subject of an appeal shall be implemented unless one of the following conditions has been met:

a) The council has denied the appeal;

b) The public agency has pursuant to Water Code section 85225.5 decided to proceed with the action as proposed or modified and has filed with the council a revised certification of consistency addressing each of the findings made by the council, 30 days has elapsed and no person has appealed the revised certification; or

c) The council or its executive officer has dismissed the appeal for one or both of the following reasons:

1. The appellant has failed to provide information in her possession or under her control within the time requested or

2. The issue raised is not within the council's jurisdiction or fails to raise an appealable issue.

NOTE: Authority cited: Water Code sections 85225.5, 85225.25, 85225.30.

Review of Bay Delta Conservation Plan

16. If the Department of Fish and Game (department) determines that the Bay Delta Conservation Plan (BDCP) referred to in Water Code section 85053 meets all of the requirements of Water Code section 85320 for inclusion in the Delta Plan, it shall file the BDCP and its determination with the council.

NOTE: Authority cited: Water Code sections 85053, 85225.30, 85320.

17. Upon receipt of the department's determination, the executive officer of the council shall:

a) Post a notice and brief description of the BDCP, the department's determination, the date of filing and the right of any person to appeal that determination on its website and in a conspicuous location in the council's office;

b) Mail a notice and brief description of the BDCP, the department's determination and the right of appeal to any person requesting notice; and

c) Mail copies of the determination to each member of the council.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

18. Any person, including any member of the council or its executive officer, may appeal to the council the determination of the department that the BDCP meets all of the requirements of Water Code section 85320 for inclusion in the Delta Plan.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

19. a) Any appeal to the council made pursuant to Paragraph 18 shall be made within 30 days of the later of the following:

1. the filing with the council of the department's determination that the BDCP meets all the requirements of Water Code section 85320 for inclusion in the Delta Plan, or

2. the conclusion of the council's hearing or hearings held pursuant to Water Code section 85320(d).

b) The appeal shall be in writing and filed in electronic form. It shall clearly set forth the specific grounds for the appeal and the specific facts upon which it is based. These shall include a list of each specific requirement of Water Code section 85320 that the BDCP allegedly fails to meet. The appeal shall be considered filed with the council when the appellant's appeal is received, determined by staff to contain all the information required in this paragraph, and a hard-copy is printed and stamped "Filed" by the council staff with the date of filing indicated.

c) If an appeal is filed before the council publicly notices a hearing to be held pursuant to Water Code section 85320(d), the council, in its discretion, may combine the hearing on appeal and the hearing pursuant to Water Code section 85320(d).

NOTE: Authority cited: Water Code sections 85225.30, 85320.

20. Within five working days of the filing of an appeal pursuant to Paragraph 18, the executive director shall:

a) Post a notice and brief description of the appeal on its website and in a conspicuous location in the council's office;

b) Mail a notice and brief description of the appeal to any person requesting copies of such appeals; and

c) Mail copies of the appeal and a brief description of the appeal to each member of the council.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

21. The council or its executive officer may request from the appellant or the department additional information necessary to clarify, amplify, correct, or supplement the information submitted with the appeal within a reasonable period.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

22. Any appeal made pursuant to Paragraph 18 may be dismissed if the council or its executive officer determines that it does not raise an appealable issue or if the appellant has failed to provide requested information to support her charge within a reasonable time, if that information is in the possession of or under the control of the appellant.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (e).

23. The council shall determine, based upon a preponderance of the evidence, whether the department correctly determined that the BDCP meets all of the requirements of Water Code section 85320 for inclusion in the Delta Plan. In reaching its decision, the council shall give weight to the reasoning and factual findings of the department. The council may seek clarification from the department of its reasoning and factual findings prior to the council making its final determination.

NOTE: Authority cited: Water Code section 85225.30, 85320(b), (e).

23.5 a) The council shall conduct any hearing on an appeal made pursuant to Paragraph 18 in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unreasonable delay.

b) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the

existence of any common law or statutory rule which might make improper the admission of such evidence over objection in a court proceeding. Unduly repetitious or irrelevant evidence shall be excluded upon order of the council or its chairperson.

c) Subject to Paragraph 23, evidence before the council includes, but is not limited to, the record before the department. The record will not include a transcript of any proceedings before the department unless provided by a party to the proceedings or requested by the council.

d) Any interested person may testify before the council regarding an appeal concerning the BDCP. Speakers' presentations shall be to the point and shall be as brief as possible. Visual and other materials may be used as appropriate. The council may establish reasonable time limits for presentations; such time limits shall be made known to all affected persons prior to any hearing. Where speakers use or submit to the council visual or other materials, such materials shall become part of the hearing record and shall be identified and maintained as such. Speakers may substitute reproductions of models or other large materials but shall agree to make the originals available upon request of the executive director.

e) Council members may ask questions of the appellant, the department's representative(s), any third party appearing at the hearing or staff. Questioning of speakers at the hearing by other persons shall not be permitted except by permission of the Chairperson.

f) Interested persons may submit written comments concerning an appeal. Any such comments will be considered by the council if they are received by the council at or before the hearing on the appeal; provided that those written comments should be submitted to the council at least 10 days prior to the hearing to ensure that they, or in appropriate cases, summaries, may be circulated to council members for their review ahead of the hearing.

g) The council may continue the hearing where it determines that a continuance would be appropriate.

NOTE: Authority cited: Water Code sections 85225.30, 85320(e).

24. The council's decision shall include specific written findings. The council shall post its decision on its website and mail copies to the department and all parties requesting notice.

NOTE: Authority cited: Water Code sections 85225.30, 85320(e).

25. If the council decides that the department incorrectly determined that the BDCP meets all of the requirements of section 85320 for inclusion in the Delta Plan, and consequently grants the appeal, the department may revise its determination to meet the issues raised by the council, or may respond to the council's findings in detail, setting forth reasons why it has concluded that the BDCP meets all of the requirements of section 85320 for inclusion in the Delta Plan. Unless the council decides that the department's determination, as submitted or revised, correctly concludes that the BDCP meets all of the requirements of section 85320 for inclusion in the Delta Plan, the BDCP shall not be incorporated in the Delta Plan and the public benefits associated with the BDCP shall not be eligible for state funding.

NOTE: Authority cited: Water Code sections 85225.30, 85320 (a), (b), (e).

Ex Parte Contact Restrictions Applicable to All Appeals

26. Hearings on appeals are subject to the ex parte communication restrictions of California Administrative Procedures Act (Gov. Code § 11430.10 et seq.). Under that Act, an ex parte communication is a "communication, direct or indirect, regarding any issue in the proceeding, to the [council or council member] from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and opportunity for all parties to participate in the communication." (Gov. Code § 11430.10.) The restrictions apply from the date that the appeal is filed to the date that the council reaches a final decision on the appeal.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30.

27. To ensure compliance with these provisions, members should avoid ex parte communications while an appeal is pending. If they nevertheless receive one, such as by an individual sending a letter to a member concerning a pending matter, the member should notify the council's legal adviser or executive officer so that appropriate measures can be taken.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30.

28. At the first appropriate meeting after an appeal is anticipated or filed, the council's legal adviser will remind the council of this restriction and answer questions about its scope.

NOTE: Authority cited: Government Code sections 11430.10, 11430.80, Water Code section 85225.30.

Official Notice

29. Notwithstanding any provision of these procedures to the contrary, the council may take official notice in any hearing that it conducts, of any generally accepted technical or scientific matter within the council's jurisdiction, and of any fact that may be judicially noticed by the courts of this State.

NOTE: Authority cited: Government Code section 11515, Water Code section 85225.30.

Filings and Mailings

30. All filings and mailings required by sections 1-29 of these procedures may be made electronically.

NOTE: Authority cited: Water Code section 85225.30.

Consolidation of Appeals

31. The council, at its discretion, may consolidate appeals raising similar issues.

NOTE: Authority cited: Water Code section 85225.30.

Part II. Statutory Provisions Requiring Other Consistency Reviews (After Adoption of the Delta Plan)

In several other sections of SB X7 1, the council is directed to review for consistency with the Delta Plan, various plans of specified public agencies. This Part is directed at those reviews, which fall outside the scope of the procedures covered by Part I.

1. Delta Protection Commission's Economic Sustainability Plan.

Public Resources Code section 29759 requires the Delta Protection Commission (DPC), by July 1, 2011, to adopt an economic sustainability plan. That plan must include information and recommendations that inform the council's policies regarding the socioeconomic sustainability of the Delta's region.

Public Resources Code section 29761.5(b) requires the DPC to transmit copies of the plan to the council within 60 days of adoption. The council is required, within 180 days of the adoption of the plan, to review the plan for consistency with the Delta Plan.

2. Local and Regional Planning Documents.

Water Code section 85057.5(b)(3), excepts from the definition of "covered action", regional transportation plans prepared pursuant to Government Code section 65080.

Paragraph (4) of that same section, excepts from the definition of "covered action", plans, programs, projects or activities within the secondary zone of the Delta that the applicable metropolitan planning organization under Government Code section 65080 has determined is consistent with either a sustainable communities strategy or an alternative planning strategy that would achieve specified greenhouse gas emission reduction targets as determined by the Air Resources Board.

Because they are not "covered actions", these types of local and regional planning documents are not subject to the statutory provisions governing consistency of state and local public agency actions (Water Code secs. 85225 et seq.), or the council's Administrative Procedures Governing Appeals (Part I, above), with one exception noted in paragraph (d), below.

However, Water Code section 85212 provides a separate requirement and process for consistency review by the council of these types of local and regional planning documents.

In particular:

(a) The council is required to review and provide timely advice to local and regional planning agencies regarding the consistency of local and regional planning documents, including sustainable communities strategies and alternative planning strategies prepared pursuant to Government Code section 65080, with the Delta Plan.

(b)The council's input must include, but not be limited to, reviewing the consistency of local and regional planning documents with the ecosystem restoration needs of the Delta and reviewing whether the lands set aside for natural resources protection are sufficient to meet the Delta's ecosystem needs.

(c) A metropolitan planning organization preparing a regional transportation plan that includes land within the primary or secondary zones of the Delta must consult with the council early in the planning process regarding the issues and policy choices relating to the council's advice.

(d) No later than 60 days prior to the adoption of a final regional transportation plan, the metropolitan planning organization must provide the council with a draft sustainable communities strategy and an alternative planning strategy, if any. Concurrently, the metropolitan planning organization must provide notice of its submission to the council in the same manner in which agencies file a certificate of consistency with regard to covered actions.

(e) If the council concludes that the draft strategies are inconsistent with the Delta Plan, the council must provide written notice of the claimed inconsistency to the metropolitan planning organization no later than 30 days prior to the adoption of the final regional transportation plan.

(f) If the council provides timely notice of a claimed inconsistency, the metropolitan planning organization's adoption of the final regional transportation plan must include a detailed response to the council's notice.

Part III. Other Forms of Review or Evaluation by the Council

1. Interested parties, including federal, state and local public agencies, are encouraged to confer with the council or its executive officer over the scope and potential impacts of the interim plan developed under Water Code section 85084. Interested parties will be provided an opportunity to comment and provide input on the interim plan as it is developed.

2. Similarly, prior to adoption of the Delta Plan, project proponents are encouraged to consult with the council or its executive officer early in the planning stages of projects that may constitute "covered actions" under Water Code section 85057.5 once the Delta Plan is adopted. Subject to available resources, the council may review and comment on planning documents and environmental review documents regarding potential "covered actions".

3. Subject to available resources, the executive officer or his designee may meet with interested parties, upon their request, to help mediate relevant disputes, including disputes, once the Delta Plan is adopted, over whether a project constitutes a "covered action" under Water Code section 85057.5. The intent of this mediation will be to provide an objective and informal forum for dispute resolution that will serve as a more efficient alternative to costly and time- consuming litigation.

4. Interested parties, including federal, state and local agencies, are encouraged to confer and coordinate with the council or its executive officer with regard to agency plans, studies, strategies, and recommendations required, or otherwise suggested, to be considered by the council for incorporation into the Delta Plan.

Appendix B. Early Action Review Processes and Plan or Project Review Application

B.1 Early Action Review Processes

Possible early actions should be considered under the framework of the adopted Interim Plan.

Priority for consideration should be given to early actions identified in SBX7 1 Part 2. "Early Actions" in Water Code sections 85080 through 85087 could be considered in September 2010.

Other possible early actions, including those recommended through public comments, should be screened against the legislative history criteria of urgency stated above. Those satisfying this screen could be considered in October and November 2010. Proposals received after November 1, 2010, may not be considered as "early actions." Additional early actions will be considered throughout the period of the Delta Plan preparation, at the discretion of the Council.

The Council should establish a two-member "early actions" committee to review identified possible early actions and make recommendations to the full Council (under Wat. Code § 85210(k)).

The Council committee should review possible early actions as identified and on the schedule in its work plan.

The early actions committee should consider possible early actions in public meetings, and should develop an agenda with designated time limits to ensure completing the reviews in the time allotted.

To promote efficient review of potential early actions, project proponents are strongly encouraged to complete the "Plan or project review application" (adopted by the council August 2010) and submit it to the council staff no less than thirty days (30) days before the committee meeting at which the item is scheduled, except that potential early actions scheduled for consideration in September 2010 may submit these materials no less twenty (20) days before the committee meeting at which the item is scheduled . If an application is deemed incomplete, the item will be removed from the agenda and may be rescheduled at the discretion of the council committee.

To promote efficient review of potential early actions, project proponents are strongly encouraged to submit materials electronically and also to deliver ten (10) hard copies to the Council offices. Applications and related materials will be posted to the Council website.

Public comments on the application will be invited, with a deadline of ten (10) days before the scheduled committee hearing, and those comments will be posted to the Council website.

Each application would be reviewed by Council staff or consultants, and a brief cover memo prepared identifying issues of particular relevance.

Each application should be reviewed by the Delta Science Program staff to identify the adequacy of scientific information available to support a committee recommendation and Council action using the standard of "best available science" required in statute and specified in the Interim Plan. If they judge the available scientific information inadequate, they may make a recommendation for any needed

additional scientific information. The committee would consider the Delta Science Program staff comments in making its recommendation to the full Council.

The committee could make one of the following recommendations on possible early actions, conveying its recommendation to the full Council in a brief report:

No action at this time (because _____)

Additional information is needed (and the item is rescheduled for _____ , possibly not as an "early action")

Recommend the Council provide a positive recommendation (citing policy objectives advanced _____)

Recommend the Council provide a negative recommendation (citing policy objectives harmed or in conflict _____)

Recommend modifications to proposal as follows (_____)

Refer for consideration under the Delta Plan (_____)

NOT REVIEWED OR APPROVED BY DELTA STEWARDSHIP COUNCIL

B.2. Application Form for Consideration of a Plan or Project

The Delta Reform Act creates the Delta Stewardship Council (Council) as an independent agency of the state (Wat. Code §85200). SBX7 1 (effective February 3, 2010) gives the Council several responsibilities, many linked to a comprehensive "Delta Plan," which the Council is charged to develop, adopt, and commence implementation of by January 1, 2012. The Council is also charged with developing an Interim Plan "…that includes recommendations for early actions, projects, and programs" (Wat. Code § 85084). The Council has set August 27, 2010, as the date for adoption of the Interim Plan. The Council uses the framework established in the Interim Plan to make recommendations based on its responsibilities under SBX7 1. After the Delta Plan is adopted, the Council decisions will become determinative.

1. Applicant Information

Request: Consideration as an early action: _____

Consultation re plan: _____

Consultation re: possible covered action: _____

Other (please specify): _____

Applicant Name:

_____

Legal status (city, special district, firm, individual, etc.): _____

Address of applicant:

_____

Contact information: Name of responsible individual:

_____

Role (officer, attorney, etc.): _____

Address: _____

Email: _____

Telephone: _____

Legally Responsible Entity Name (if different than Applicant):
_____

Legal status (city, special district, firm, individual, etc.): _____

Address of applicant:
_____

Contact information: Name of responsible individual:
_____

Role (officer, attorney, etc.): _____

Address: _____

Email: _____

Telephone: _____

Plan or project purpose narrative, including legal authority. If an action is "urgent," provide the rationale for urgency.
_____
_____
_____
_____
_____

Plan or project physical location and description (include geo-referencing latitude and longitude for projects):
_____
_____

2. Plan or Project Review by Public Agencies

Local Government Discretionary Approval(s):

Yes _____ No ____ If yes, describe: _____

Delta Protection Commission Consistency Approval(s):

Yes _____ No ____ If yes, describe: _____

Bay Conservation and Development Commission Permit:

Yes _____ No ____ If yes, describe: _____

State Lands Commission:

Yes _____ No ____

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CalTrans:

Yes _____ No ____

State Water Resources Control Board Permit:

Yes _____ No ____

Regional Water Quality Control Board:

Yes _____ No ____ Regional Board Number: _____

California Dept. of Toxic Substances Control:

Yes _____ No ____

California Department of Fish and Game Streambed Alteration Permit:

Yes _____ No ____

DF&G Take Authorization:

Yes _____ No ____

Other DF&G Permit:

Yes _____ No ____

U.S. Army Corps of Engineers:

Yes _____ No ____ Public Notice Number: _____

U.S. Fish and Wildlife Service: Take Authorization

Yes _____ No ____

Biological Opinion:

Yes _____ No ____

NOAA Fisheries Service: Take Authorization

Yes _____ No ____

Biological Opinion

Yes _____ No ____

U.S. Coast Guard:

Yes _____ No ____

Federal Funding:

Yes _____ No ____

Describe any history of consideration by any other governmental agency and provide documentation of any actions taken.

_____

_____

3. Environmental Impact Documentation (must be completed by all applicants)

a. Is the project statutorily or categorically exempt from the need to prepare any environmental documentation?

Yes _____No_____

If "Yes," please attach a statement that identifies and supports this statutory or categorical exemption.

b. Has a government agency other than the Council, serving as the lead agency, adopted a negative declaration or certified an environmental impact report or environmental impact statement on the project?

Yes _____No_____

If "Yes," attach a copy of the document. If the environmental impact report or statement is longer than ten pages, also provide a summary of up to ten pages. If "No," provide sufficient information to allow the Council to make the necessary findings regarding all applicable policies. The certified document must be submitted prior to action on the application.

4. Assessment against Delta Reform Act Policy Objectives

Assess the proposed plan or project against the eight policy objectives listed below which "the legislature declares are inherent in the coequal goals for management of the Delta" (WC Section 85020). Provide a brief summary for the rationale for each assessment and reference to any supporting documentation (include URL links as appropriate).

(a) Manage the Delta's water and environmental resources and the water resources of the state over the long term.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____

Rationale, magnitude of effect (if positive or negative) and documentation:

_____

_____

(b) Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____

Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(c) Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(d) Promote statewide water conservation, water use efficiency, and sustainable water use.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(e) Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(f) Improve the water conveyance system and expand statewide water storage.

Positive _____ Negative _____ Neutral _____ Unknown_____ Not Applicable ____Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable ____

Rationale, magnitude of effect (if positive or negative) and documentation:
_____
_____

(h) Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives.

Positive _____ Negative _____ Neutral _____ Unknown _____ Not Applicable

____Rationale, magnitude of effect (if positive or negative) and documentation:

_____

_____

5. Assessment of Administration and Implementation Processes

Cost of Project/Plan: Please provide your best estimate of the total cost of the project or plan you are proposing. If this is a Plan, please provide an estimate of the annual operational or enforcement costs projected for the activity. Please list all sources used for developing the cost estimates

_____

_____

Financing (provide information on public and private sources of funding, including funds on hand or legally pledged or obligated and the sources of those funds):

_____

_____

Identify any public agencies (federal, state and local) whose actions or decisions are essential for the proposed action to succeed. Provide evidence of their approval and support of the proposed action:

_____

_____

If real property must be acquired or use altered for the success of the proposed action, identify the owners of that property and information on how ownership or use change will occur:

_____

_____

Provide a time line for the proposed plan or project, including major milestones through completion:

_____

_____

Describe how success or failure of the plan or project will be determined, including measures proposed, time frame and public agency responsible for judging success:

_____

_____

Describe the major benefits that can result from the proposed plan or project, including identification of beneficiaries and any information on the magnitude and timing of benefits received:

_____

_____

If the proposed plan or project fails, what is done? What additional costs could be incurred and how will they be financed? Identify any lasting effects or changed options for future policy making:

_____

_____

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6. Scientific justification (to address requirement for Council use of best available science, Water Code section 85302(g)):

Attach description of scientific justification for the proposed plan or project and provide any pertinent documents. Address the criteria identified in Section 3 when preparing the scientific justification. Provide complete list of all scientific references cited.

7. Applicant certifications and authorizations

I certify that all of the information submitted is complete and accurate to the best of my knowledge and that all attached exhibits are full, complete and correct. I certify that I understand that omitted or insufficient information can delay consideration of this application. I certify that this application is not complete until accepted by the Council at a regularly scheduled meeting. I authorize the Council, its staff or other authorized personnel to share this information publicly and authorize their collection of additional information relevant to this application.

_____ _____

Signature of applicant or applicant's representative Date

Printed name: _____ Title: _____

Appendix C: Council Approved Actions

Appendix C contains a record of Council-approved actions. It is intended to be the formal record of final Council actions in satisfying SBX7 1. It will include, for example, any actions taken in regard to approval of the economic sustainability plan of the Delta prepared by the Delta Protection Commission (Pub. Resources Code § 29761.5(b)), actions regarding BDCP (§ 85320(e)), or adoption of the Interim Plan (Wat. Code § 85084). The appendix will not include requests of other agencies or interim actions taken unless they have some formal effect on actions (e.g., an interim ruling). This listing of Council approved actions will continue after the Delta Plan is adopted.

Table C-1:
Council Approved Actions

Date of Council action	Action ("Project" is used consistent with Pub. Resources Code § 20165)	Responsible Agency	Relevant code sections	Relevant to statutory objectives of Interim Plan, Delta Plan, or coequal goals
April 22, 2010	Council meeting procedures	Delta Stewardship Council	Water Code 85210(i) and Water Code 85201(a)	N/A
June 24, 2010	Appoint Delta Independent Science Board members	Delta Stewardship Council	Water Code 85080	N/A
June 25, 2010	Approved encumbering funds for design, planning and environmental review of 10 identified projects	Department of Water Resources and reclamation districts	Water Code 83002(a)(1)	N/A

Appendix D: Basic Legal Authorities

Water Code Section 85020 lists the state's policy objectives for the Delta. The Council has authority for action under these objectives. This appendix summarizes those authorities.

Section 85020(a): Manage the Delta's water and environmental resources and the water resources of the state over the long term.

Section 85020 of the Delta Reform Act identifies policy objectives essential to achieving the coequal goals. As previously indicated, the Council views the coequal goals defined in Public Resources Code Section 29702(a) as a complete statement of state policy. This understanding of the definition of "coequal goals" is repeated in Water Code Section 85054, and directly or indirectly implied in other sections of the legislation. Thus, the objectives must be viewed through the prism of the coequal goals, according to the plain language of the statute, "The policy of the State of California is to achieve the following objectives that the Legislature declares are inherent in the coequal goals for management of the Delta…"

The Delta Reform Act includes specific provisions that are addressed in more detail in the remaining portions of this section related to ecosystem restoration under Section 85020(c) and water supply reliability through water use efficiency and sustainable water use (§ 85020(d), improved Delta water quality (§ 85020(e), improved water conveyance and statewide storage (§ 85020(f), and reduced risks to people and property in the Delta (§ 85020(g)).

Section 85082 requires the Council to develop and implement a strategy to engage federal agencies, including incorporating issues addressed in Sections II and III and IV.A of the December 22, 2009 Interim Federal Action Plan for the California Bay-Delta that are relevant to policy objectives 85020(c)(d)(e) and (f).

Section 85020(b): Protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place

Water Code Section 85020(b) identifies the need to "protect and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place" as one of the key policy objectives.

SBX7 1 also includes provisions related to the DPC, Delta land use, and economic development in the Delta. The DPC is identified as:

Section 1. The appropriate agency to identify and provide recommendations to the Council on methods of preserving the Delta as an evolving place (Pub. Resources Code § 29703.5(a))

- Eligible to be "the facilitating agency for the implementation of any joint habitat restoration plan or enhancement programs located within the primary zone of the Delta…," including a National Heritage Area designation in the Delta (§ 29756.5)

- Required to submit to the Legislature "recommendations regarding the potential expansion of or a change to the primary zone or the Delta" including considerations of Rio Vista, Isleton, Bethel Island, Brannan-Andrus Island, the Cosumnes/Mokelumne floodway, and the San Joaquin/South Delta lowlands (§ 29773.5) by July 1, 2010.

Water Code Section 85301 requires the DPC (referred to as "commission" in code section) and other agencies to propose recommendations to the Council that the Council may include in the Delta Plan:

> (a) The commission shall develop, for consideration and incorporation into the Delta Plan by the council, a proposal to protect, enhance and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals.
>
> (b)(1) The commission shall include in the proposal a plan to establish state and federal designation of the Delta as a place of special significance, which may include application for a federal designation of the Delta as a National Heritage Area.
>
> (2) The commission shall include in the proposal a regional economic plan to support increased investment in agriculture, recreation, tourism and other resilient land uses in the Delta. The regional economic plan shall include detailed recommendations for the administration of the Delta Investment Fund...
>
> (c)(1) The Department of Parks and Recreation shall prepare a proposal...to expand within the Delta the network of state recreation areas, combining existing and newly designated areas.
>
> (2) The Department of Food and Agriculture shall prepare a proposal...to establish market incentives and infrastructure to protect and enhance the economic and public values of Delta agriculture.
>
> (d) The commission shall submit the proposal developed pursuant to subdivision (a) to the council. The council shall consider the proposal and may include any portion of the proposal in the Delta Plan if the council, in its discretion, determines that the portion of the proposal is feasible and consistent with the objectives of the Delta Plan and the purposes of this division.

Additionally, SBX7 1 also creates the Delta Investment Fund (Pub. Resources Code § 29778.5), allows the Delta Conservancy to allocate funds for "economic sustainability in the Delta" (§ 32360(b)(3)), and articulates a series of "fundamental goals for managing land use in the Delta" (Wat. Code § 85022(d)).

Section 85020(c): Restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem

The Delta Reform Act included Section 85020(c) to "restore the Delta ecosystem, including its fisheries and wildlife, as the heart of a healthy estuary and wetland ecosystem" as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to sustainable water supplies.

- Section 85302(c) details that the Delta Plan must address the Delta ecosystem, including "measures that promote all of the following characteristics of a healthy Delta ecosystem:
  - Viable populations of native resident and migratory species
  - Functional corridors for migratory species
  - Diverse and biologically appropriate habitats and ecosystem processes
  - Reduced threats and stresses on the Delta ecosystem
  - Conditions conducive to meeting or exceeding the goals in existing species recovery plans and state and federal goals with respect to doubling salmon populations"
- Section 85302(e) identifies "subgoals and strategies for restoring a healthy ecosystem," which are:
  - "Restore large areas of interconnected habitats within the Delta and its watershed by 2100
  - Establish migratory corridors for fish, birds, and other animals along selected Delta river channels
  - Promote self-sustaining, diverse populations of native and valued species by reducing the risk of take and harm from invasive species
  - Restore Delta flows and channels to support a healthy estuary and other ecosystems
  - Improve water quality to meet drinking water, agriculture, and ecosystem long-term goals
  - Restore habitat necessary to avoid a net loss of migratory bird habitat and, where feasible, increase migratory bird habitat to promote viable populations of migratory birds"

The Delta Reform Act also contains the following provisions related to the management of the Delta ecosystem:

- Sections 32360 through 32381 describe the responsibilities of the Delta Conservancy to support the ecosystem
- Section 85086(c)(1) requires the SWRCB to "...develop new flow criteria for the Delta ecosystem necessary to protect public trust resources" for the purpose of informing planning decisions for the Delta Plan and the BCDP
- Section 85087 requires the SWRCB to "submit to the Legislature a prioritized schedule...to complete instream flow studies for the Delta and for high priority rivers and streams in the Delta watershed...by 2012, and for all major rivers and streams outside the Sacramento River watershed by 2018" in consultation with the DFG
- Sections 85088 through 85089 describes conditions under which the point of diversion for the SWP and CVP may be moved
- Section 85320 describes requirements under which the BDCP shall be incorporated into the Delta Plan, including requirements for consideration of ecosystem conditions

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Section 85020(d): Promote statewide water conservation, water use efficiency, and sustainable water use

Several legislative acts have been adopted over the past 30 years to increase the amount of water conservation. In 1985, the California Urban Water Management Planning Act was adopted to require municipal and industrial users with more than 3,000 connections or use of more than 3,000 acre-feet/year to prepare an urban water management plan (UWMP). The UWMP was required to include existing and projected water supplies and demands, water supply allocations, comparison of supplies and demands, water demand management program (conservation), wastewater recycling, and water shortage contingency plans. In 1990, the Water Conservation in Landscaping Act was adopted to develop a model water efficient landscape ordinance. In 2004, Assembly Bill 2717 was adopted to request that the California Urban Water Conservation Council convene a task force and develop a model local water efficient landscape ordinance.

In 1990, the Agricultural Water Suppliers Efficient Water Management Practices Act of 1990 (AB 3616) was adopted. This act supported the voluntary implementation of efficient agricultural water management practices and led to the formation of the Agricultural Water Management Council and preparation of Agricultural Water Management Plans that included an evaluation of net benefits of efficient management practices.

Legislation adopted in November 2009 as SB7X 7 created a framework for future planning and actions by urban and agricultural water suppliers to reduce California's water use. This bill changed Division 6 of the Water Code to include water use reduction targets and interim targets and plans for both urban and agricultural water suppliers and users, including the following sections, and data reporting methods and frequencies.

- Section 10608.16 requires that the state achieve a 20-percent reduction in urban per capita water use in California on or before December 31, 2020, and reduce urban per capita water use by at least 10 percent on or before December 31, 2015.
- Section 10608.20 requires that each urban retail water supplier develop urban water use targets and an interim urban water use target by July 1, 2011.
- Section 10608.48(a) requires that an agricultural water supplier implement specified efficient water management practices on or before July 31, 2012.
- Section 10608.64 requires that DWR, in consultation with the Agricultural Water Management Council, academic experts, and other stakeholders, develop a methodology for quantifying the efficiency of agricultural water use and report to the legislature by December 31, 2011.

The legislation also included the Agricultural Water Management Planning Act that changed the Water Code in Section 10820 to require agricultural water management plans to be prepared by December 31, 2012, and updated by on December 31, 2015 and every 5 years thereafter. Water users that do not comply with this requirement would not be eligible for California water grants or loans without indicating compliance. The legislation also stated that agricultural water suppliers with less than 25,000 acres irrigated with non-recycled water would not need to comply with these changes to the Water Code unless funding is provided for implementation.

The Delta Reform Act included Section 85020(d) to "Promote statewide water conservation, water use efficiency, and sustainable water use" as an objective for management of the Delta. In addition, the

Delta Reform Act modified the Water Code to include the following provisions related to sustainable water supplies.

- Section 85021 states, "The policy of the State of California is to reduce reliance on the Delta in meeting California's future water supply needs through a statewide strategy of investing in improved regional supplies, conservation, and water use efficiency. Each region that depends on water from the Delta watershed shall improve its regional self-reliance for water through investment in water use efficiency, water recycling, advanced water technologies, local and regional water supply projects, and improved regional coordination of local and regional water supply efforts."
- Section 85303 states, "The Delta Plan shall promote statewide water conservation, water use efficiency, and sustainable use of water."
- Section 85086(a) instructs the SWRCB to establish an effective system of Delta watershed diversion data collection and public reporting by December 31, 2010. Additional data reporting by surface water diverters and groundwater users were required through modifications in the Water Code by the adoption of SBX 8 and SBX 6, respectively.

In addition to state law, several federal laws have been adopted to support water use efficiency with CVP water users. The 1982 Reclamation Reform Act and the 1992 Central Valley Project Improvement Act (Title 34 of Public Law 102-575) included water conservation criteria to develop best management practices and reporting requirements for urban and agricultural water users. The Reclamation Wastewater and Groundwater Studies Feasibility Act of 1992 (Title XVI of Public Law 102-575) provided for the Secretary of the Interior to establish a federal water reclamation, recycling, and reuse program in the 17 western United States where Reclamation provides services and Hawaii, and to conduct research for wastewater reclamation and treatment of impaired surface waters and groundwater.

Although, not being conducted in accordance with specific legislation, the SWRCB is currently updating the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, including considerations related to improved near-term and long-term water use efficiency.

Section 85020(e): Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta

The Porter-Cologne Act is the basic water quality control legislation in California, and is administered by the SWRCB and the Regional Water Quality Control Boards (collectively known as the Water Boards). The Water Boards also implement portions of the federal Clean Water Act related to water quality of waters of the United States in accordance with approval by the U.S. Environmental Protection Agency (USEPA). Water quality requirements are developed by the Water Boards to meet water quality objectives and protect designated beneficial uses. The SWRCB also administers statewide water rights. The SWRCB has historically issued water rights decisions and orders that have modified SWP and CVP operations to protect the Bay and Delta objectives and beneficial uses.

The Delta Reform Act included Section 85020(e) to " Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta" as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to water quality.

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- Section 85022(d)(6) includes fundamental goals for managing land use in the Delta to “Improve water quality to protect human health and the environment consistent with achieving water quality objectives in the Delta”
- Section 85302(d)(3) includes measures to promote a more reliable water supply, including "Improving water quality to protect human health and the environment”
- Section 85302(e)(5) includes subgoals and strategies for restoring a healthy ecosystem in the Delta Plan including "Improve water quality to meet drinking water, agriculture, and ecosystem long-term goals”

Section 85020(f): Improve the water conveyance system and expand statewide water storage

The Delta Reform Act included Section 85020 to "improve the water conveyance system and expand statewide water storage” as an objective for management of the Delta. In addition, the Delta Reform Act modified the Water Code to include the following provisions related to water conveyance and storage.

- Section 85004 states that the Legislature “finds and declares all of the following:

  (a) The economies of major regions of the state depend on the ability to use water within the Delta watershed or to import water from the Delta watershed. More than two-thirds of the residents of the state and more than two million acres of highly productive farmland receive water exported from the Delta watershed.

  (b) Providing a more reliable water supply for the state involves implementation of water use efficiency and conservation projects, wastewater reclamation projects, desalination, and new and improved infrastructure, including water storage and Delta conveyance facilities"

- Section 85304 states, "Delta Plan shall promote options for new and improved infrastructure relating to the water conveyance in the Delta, storage systems, and for the operation of both to achieve the coequal goals"
- Section 85320(b)(2)(B) states that the BDCP shall not be incorporated into the Delta Plan unless the BDCP environmental documentation evaluates a " reasonable range of Delta conveyance alternatives, including through-Delta, dual conveyance, and isolated conveyance alternatives and including further capacity and design options of a lined canal, an unlined canal, and pipelines"
- Section 85320 (b)(2)(F) states that the BDCP environmental documentation must include a comprehensive review and analysis of "resilience and recovery of Delta conveyance alternatives in the event of catastrophic loss caused by earthquake or flood or other natural disaster"

Section 85020(g): Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection

Section 85020 includes “(g) Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and investments in flood protection” as an objective

for management of the Delta. In addition, SBX7 1 makes other amendments or additions for risk reduction in the following codes:

- Section 29702 includes "(d) Improve flood protection by structural and nonstructural means to ensure an increased level of public health and safety."
- Section 29759 instructs the DPC to prepare the economic sustainability plan, including "(b)(1) Public safety recommendations, such as flood protection recommendations."
- Section 85305 states, "(a) The Delta Plan shall attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments. (b) The council may incorporate into the Delta Plan the emergency preparedness and response strategies for the Delta developed by the California Emergency Management Agency pursuant to Section 12994.5."

SBX7 1 also identifies possible early actions related to this policy objective, including:

- Develop and implement a strategy to engage federal agencies (§ 85082) including building off the Interim Federal Action Plan for the California Bay-Delta (December 22, 2009), Section IV.B (pages 22-23).
- Coordinate with and support DWR, in consultation with the U.S. Army Corps of Engineers (Corps) and the Central Valley Flood Protection Board, in preparation of a plan to coordinate flood and water supply operations of the SWP and CVP (§ 85309).
- Section 85306 states, "The council, in consultation with the Central Valley Flood Protection Board, shall recommend in the Delta Plan priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and nonproject levees."

Section 85020(h): Establish a new governance structure with the authority, responsibility, accountability, scientific support, and adequate and secure funding to achieve these objectives

The recently enacted SBX7 1 and the companion bills adopted in 2009 make fundamental changes in the governance structure of the Delta and agencies that deal with the complex interaction of water laws and the Delta ecosystem and Delta as place. It is the intention of the Council to evaluate how those changes work with the old system and to make recommendations for inclusions in the Interim Plan and/or the Delta Plan that help to explain, clarify, and reinforce the important statutory actions.

The Act includes major governance reforms, creating the Council as an independent state agency (Wat. Code § 85200) and making it the successor to the California Bay Delta Authority (§ 85034), including a reconstituted Delta Independent Science Board (§ 85080 and 85280), creating a new Delta Conservancy (Pub. Resources Code § 32320), revising the composition and responsibilities of the DPC (§ 29735-29754), and giving the Council responsibility to develop and implement the Delta Plan to guide actions of state and local agencies (Wat. Code § 85300). The Act also assigns responsibilities to the SWRCB (e.g., § 85086 through 85089), the DFG (e.g., § 85084.5), and the DWR (e.g., § 85085 and 85309) among state agencies. New policies are established for completion of the BDCP (e.g., § 85320, 85321). In other sections, SBX7 1 establishes or reinforces broad state policy, including reducing reliance on the Delta for water supply linked to increased regional self reliance (§ 85021), establishing reasonable use and public

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trust as the foundation of state water policy (§ 85023), and requiring use of performance measures in implementing the Delta Plan (§ 85211).

These new legal authorities and policies will require consistent, effective effort to launch and sustain. The Council will have to establish procedures and policies for its work, as will the newly created Delta Conservancy. Working relationships will have to be established with other agencies. Areas of overlapping jurisdiction and competencies will have to be sorted out. A specific such example is the geographical overlap of authority in the Suisun Marsh of the existing San Francisco Bay Conservation and Development Commission and the Delta Plan, but many other examples exist with local governments and state agencies. Critically, the Act provides no long-term financing for operations of the Council or the Delta Conservancy, nor increased funding for the DPC, which was assigned additional responsibilities. Equally important, no funding streams are identified for any projects of these entities.

The Delta Reform Act includes three interim actions related to this policy objective:

- Appoint a Delta Independent Science Board (§ 85080).
- Develop and implement a strategy to engage federal agencies (§ 85082), including building off the Interim Federal Action Plan for the California Bay-Delta (December 22, 2009), Section I (pages 7-8).
- Consult with and support the SWRCB in appointing a Delta Watermaster (§ 85230).

Appendix E: Strategies and Actions from the Delta Vision Strategic Plan and Other Sources for Consideration by Council

Water Code section 85300(a) requires that strategies and actions set forth in the *Delta Vision Strategic Plan* and *Delta Vision Committee Implementation Report* be considered by the Council for inclusion in the Delta Plan. During implementation of the Interim Plan, these strategies and actions may provide useful information to the Council. The *Delta Vision Committee Implementation Report*, authored by cabinet secretaries, supported all seven goals of the *Delta Vision Strategic Plan* and all but two of its strategies (Strategy 7.1 regarding the composition and powers of a new Council and Strategy 7.4 regarding seeking CZMA status for the Delta Plan were not supported by the committee). SBX7 1 contains definitive provisions in both these areas. The Committee did not make any recommendations regarding actions, which are referenced for consideration by the Council in SBX7 1. The strategies and actions from the *Delta Vision Strategic Plan* are listed in this appendix for reference.

Additionally, the Act requires submission of plans, proposals, or recommendations from a number of agencies which may include strategies and actions for discretionary consideration by the Council for inclusion in the Delta Plan. As developed, these plans may also inform Council actions under the Interim Plan. If these plans are submitted to the Council after they can reasonably be considered for the first Delta Plan, they would be considered when the Delta Plan is updated.

This appendix is not a list of activities approved by the Council, nor an indication that the activities listed will ultimately inform Council actions under the Interim Plan or be included in the Delta Plan.

Goals, Strategies, and Actions from the Delta Vision Strategic Plan

Goal 1: Legally acknowledge the co-equal goals of restoring the Delta ecosystem and creating a more reliable water supply for California

Strategy 1.1: Make the co-equal goals the foundation of Delta and water policy making.

Action 1.1.1: Write the co-equal goals into the California Constitution or into statute.

Action 1.1.2: Incorporate the co-equal goals into the mandated duties and responsibilities of all state agencies with significant involvement in the Delta.

Action 1.1.3: Require the achievement or advancement of the co-equal goals in all water, environmental, and other bonds, and operational agreements and water contracts or water rights permits that directly or indirectly fund activities in the Delta.

Goal 2: Recognize and enhance the unique cultural, recreational, and agricultural values of the California Delta as an evolving place, an action critical to achieving the co-equal goals

Strategy 2.1: Apply for federal designation of the Delta as a National Heritage Area, and expand the State Recreation Area network in the Delta.

Action 2.1.1: Apply by 2010 for the designation of the Delta as a federally recognized National Heritage Area.

Action 2.1.2: Expand by 2010 the State Recreation Area network in the Delta, combining existing and newly designated areas.

Strategy 2.2: Establish market incentives and infrastructure to protect, refocus, and enhance the economic and public values of Delta agriculture.

Action 2.2.1: Establish special Delta designations within existing federal and state agricultural support programs.

Action 2.2.2: Conduct needed research and development for agricultural sustainability in the Delta.

Action 2.2.3: Establish new markets for innovative agricultural products and enterprises in the Delta.

Strategy 2.3: Develop a regional economic plan to support increased investment in agriculture, recreation, tourism, and other resilient land uses.

Action 2.3.1: Charge the Delta Protection Commission with facilitating a consortium of local governments to create a regional economic development plan that addresses agriculture, recreation, tourism, and other innovative land uses.

Action 2.3.2: Establish special enterprise zones at the major “gateways” to the Delta as part of the economic development plan.

Strategy 2.4: Establish a Delta Investment Fund to provide funds for regional economic development and adaptation.

Action 2.4.1: Initiate the Delta Investment Fund with state funding.

Action 2.4.2: Structure the Fund so that it can accept revenues from federal, state, local, and private sources.

Action 2.4.3: Place the Fund under the joint management of the Delta Protection Commission and a consortium of local governments.

Strategy 2.5: Adopt land use policies that enhance the Delta’s unique values, and that are compatible with the public safety, levee, and infrastructure strategies of Goal 6.

Actions: See Goals 3 and 6 for actions to address this Strategy.

Goal 3: Restore the Delta ecosystem as the heart of a healthy estuary

Strategy 3.1: Restore large areas of interconnected habitats—on the order of 100,000 acres—within the Delta and its watershed by 2100.

Action 3.1.1: Increase the frequency of floodplain inundation and establish new floodplains.

Action 3.1.2: Restore tidal habitats and protect adjacent grasslands and farmlands throughout the Delta, with active near-term pursuit of restoration targets.

Strategy 3.2: Establish migratory corridors for fish, birds, and other animals along selected Delta river channels.

Action 3.2.1: Improve physical habitats along selected corridors by 2015.

Action 3.2.2: Provide adequate flows at the right times to support fish migrations, and reduce conflicts between conveyance and migration, by 2012.

Action 3.2.3: Immediately use the Central Valley Flood Protection Plan to identify areas of the San Joaquin River within and upstream of the Delta where flood conveyance capacity can be expanded.

Action 3.2.4: Using the National Heritage Area and regional economic development planning efforts, begin immediately to identify ways to encourage recreational investment along the key river corridors.

Strategy 3.3: Promote viable, diverse populations of native and valued species by reducing risks of fish kills and harm from invasive species.

Action 3.3.1: Reduce fish kills in Delta pumps by instituting diversion management measures by 2009, implementing near-term conveyance improvements by 2015, and relocating diversions.

Action 3.3.2: Control harmful invasive species at existing locations by 2012, and minimize or preclude new introductions and colonization of new restoration areas to non-significant levels.

Strategy 3.4: Restore Delta flows and channels to support a healthy Delta estuary.

Action 3.4.1: Charge the Department of Fish and Game with completing recommendations for in-stream flows for the Delta and high priority rivers and streams in the Delta watershed by 2012 and for all major rivers and streams by 2018.

Action 3.4.2: Develop and adopt management policies supporting increased diversion during wet periods, a joint effort of the State Water Resources Control Board, the Department of Fish and Game, the Department of Water Resources, and related federal agencies, to be completed by 2012.

Action 3.4.3: Adopt new State Water Resources Control Board requirements by 2012 to increase spring Delta outflow. Commence implementation no later than 2015.

Action 3.4.4: Adopt new State Water Resources Control Board requirements by 2012 to reintroduce fall outflow variability no later than 2015.

Action 3.4.5: Increase San Joaquin River flows between February and June by revising the State Water Resources Control Board's Vernalis flow objectives and the state and federal water

projects' export criteria. Revise the flow objectives and criteria no later than 2012 and commence implementation as soon as possible thereafter.

Action 3.4.6: Provide short-duration San Joaquin River pulse flows in the fall starting by 2015.

Action 3.4.7: Reconfigure Delta waterway geometry by 2015 to increase variability in estuarine circulation patterns.

Strategy 3.5: Improve water quality to meet drinking water, agriculture, and ecosystem longterm goals.

Action 3.5.1: Require the Central Valley Regional Water Quality Control Board to conduct three actions:

_ Immediately re-evaluate wastewater treatment plant discharges into Delta waterways and upstream rivers and set discharge requirements at levels that are fully protective of human health and ecosystem needs.

_ Adopt by 2010 a long-term program to regulate discharges from irrigated agricultural lands.

_ Review by 2012 the impacts of urban runoff on Delta water quality and adopt a plan to reduce or eliminate those impacts.

Action 3.5.2: Relocate as many Delta drinking water intakes as feasible away from sensitive habitats and to channels where water quality is higher.

Action 3.5.3: Establish Total Maximum Daily Load programs by 2012 for upstream areas to reduce organic and inorganic mercury entering the Delta from tributary watersheds.

Action 3.5.4: Begin comprehensive monitoring of water quality and Delta fish and wildlife health in 2009.

Goal 4: Promote statewide water conservation, efficiency, and sustainable use

Strategy 4.1: Reduce urban, residential, industrial, and agricultural water demand through improved water use efficiency and conservation, starting by achieving a statewide 20 percent per capita reduction in water use by 2020.

Action 4.1.1: Improve statewide water use efficiency and conservation.

Action 4.1.2: Reduce urban per-capita water demand through specific recommended actions.

Action 4.1.3: Ensure the most efficient use of water in agriculture.

Strategy 4.2: Increase reliability through diverse regional water supply portfolios.

Action 4.2.1: Modify the Water Recycling Act of 1991 to add a statewide target to recycle on the order of 1.5 million acre-feet of water annually by 2020.

Action 4.2.2: Enact legislation now to encourage local water agencies to at least triple the current statewide capacity for generating new water supplies through ocean and brackish water desalination by 2020.

Action 4.2.3: Request that the State Water Resources Control Board set goals by 2015 for infiltration and direct use of urban storm water runoff throughout the Delta watershed and its export areas.

Action 4.2.4: Request agencies to ensure that accurate and timely information is collected and reported on all surface water and groundwater diversions in California by 2012.

Action 4.2.5: Require that all water purveyors develop an integrated contingency plan by 2015 in case of Delta water supply curtailments or drought.

Action 4.2.6: Establish a regulatory framework that encourages efficient and integrated management of water resources at local, regional, and statewide levels, with a focus on specific actions.

Goal 5: Build facilities to improve the existing water conveyance system and expand statewide storage, and operate both to achieve the co-equal goals

Strategy 5.1: Expand options for water conveyance, storage, and improved reservoir operations.

Action 5.1.1: Direct the Department of Water Resources and other allied agencies to further investigate the feasibility of a dual conveyance facility, building upon the Bay Delta Conservation Plan effort.

Action 5.1.2: Direct the Department of Water Resources, the Department of Fish and Game, and other allied agencies to recommend the size and location of new storage and conveyance facilities by the end of 2010. Develop a long-term action plan to guide design, construction, and operation, and present the recommendation and plan to the California Delta Ecosystem and Water Council for a consistency determination.

Action 5.1.3: Complete substantial development and construction of new surface and groundwater storage and associated conveyance facilities by 2020, with the goal of completing all planned facilities by 2030.

Strategy 5.2: Integrate Central Valley flood management with water supply planning.

Action 5.2.1: Change the operating rules of existing reservoirs to incorporate and reflect modern forecasting capabilities.

Action 5.2.2: Require the Department of Water Resources to immediately create a flood bypass along the lower San Joaquin River.

Action 5.2.3: Request that the Department of Water Resources encourage greater infiltration as part of watershed management planning.

Goal 6: Reduce risks to people, property, and state interests in the Delta by effective emergency preparedness, appropriate land uses, and strategic levee investments

Strategy 6.1: Significantly improve levels of emergency protection for people, assets, and resources.

Action 6.1.1: Complete a Delta-wide regional emergency response plan by 2010 that establishes legally binding regional coordination.

Action 6.1.2: Immediately begin a comprehensive series of emergency management and preparation actions.

Action 6.1.3: Conduct a comprehensive analysis of the costs and benefits of highway protection strategies, and adopt a policy based on its findings by 2012.

Action 6.1.4: Complete a comprehensive analysis of the costs and benefits of infrastructure protection strategies. Adopt a policy based on its findings by 2012.

Strategy 6.2: Discourage inappropriate land uses in the Delta region.

Action 6.2.1: Immediately strengthen land use oversight of the Cosumnes/Mokelumne floodway and the San Joaquin/South Delta lowlands.

Action 6.2.2: Immediately strengthen land use oversight for Bethel Island, the city of Isleton, and Brannan-Andrus Island.

Action 6.2.3: Immediately prepare local plans for these five at-risk locations within the primary zone: Walnut Grove (including the residential area on Grand Island), Locke, Clarksburg, Courtland, and Terminous.

Action 6.2.4: Immediately form a landowner consortium to create a new land use strategy that fosters recreation, increases habitat, reverses subsidence, sequesters carbon, improves handling of dredged material, and continues appropriate agriculture on Sherman, Twitchell, and Jersey Islands.

Strategy 6.3: Prepare a comprehensive long-term levee investment strategy that matches the level of protection provided by Delta levees and the uses of land and water enabled by those levees.

Action 6.3.1: Require the Department of Water Resources, in cooperation with local Reclamation Districts and other agencies, to develop a comprehensive plan for Delta levee investments.

Action 6.3.2: Prioritize the $750 million appropriated by Proposition 1E and Proposition 84 funds for the improvement of Delta levees, including in legacy towns.

Action 6.3.3: Require those preparing the comprehensive levee plan to incorporate the Delta Levees Classification Table to ensure consistency between levee designs and the uses of land and water enabled by those levees.

Action 6.3.4: Continue the existing Department of Water Resources levee subventions program until the comprehensive levee plan is completed.

Action 6.3.5: Vest continuing authority for levee priorities and funding with the California Delta Ecosystem and Water Council to ensure a cost-effective and sustainable relationship between levee investments and management of the Delta over the long term.

Goal 7: Establish a new governance structure with the authority, responsibility, accountability, science support, and secure funding to achieve these goals

Strategy 7.1: Establish a new California Delta Ecosystem and Water Council as a policy making, planning, regulatory, and oversight body. Abolish the existing California Bay-Delta Authority, transferring needed CALFED programs to the California Delta Ecosystem and Water Council. Establish a new Delta Conservancy to implement ecosystem restoration projects, and increase the powers of the existing Delta Protection Commission.

Action 7.1.1: Establish a California Delta Ecosystem and Water Council to replace the Bay-Delta Authority and take over CALFED programs.

Action 7.1.2: Establish a California Delta Conservancy as early as possible in the 2009 legislative session.

Action 7.1.3: Strengthen the Delta Protection Commission through legislation.

Action 7.1.4: Require the California Delta Ecosystem and Water Council to create a Delta Science and Engineering Program and a Delta Science and Engineering Board by September 1, 2009.

Action 7.1.5: Improve the compliance of diversions water use with all applicable laws.

Strategy 7.2: Require the California Delta Ecosystem and Water Council to prepare a California Delta Ecosystem and Water Plan to ensure sustained focus and enforceability among state, federal, and local entities.

Action 7.2.1: Develop a legally enforceable California Delta Ecosystem and Water Plan.

Action 7.2.2: Institutionalize adaptive management through updates to the California Delta Ecosystem and Water Plan every five years.

Action 7.2.3: Charge the Delta Science and Engineering Board, with support of the Delta Science and Engineering Program, to develop a science-based adaptive management program to provide for continued learning of, and adaptation to, actions implemented by state, federal, and local agencies in the Delta.

Strategy 7.3: Finance the activities called for in the California Delta Ecosystem and Water Plan from multiple sources.

Action 7.3.1: Enact a series of principles regarding design of financing into legislation authorizing the California Delta Ecosystem and Water Council.

Action 7.3.2: Establish a base of revenues outside the state General Fund for the work of the California Delta Ecosystem and Water Council, the Delta Conservancy, the Delta Protection Commission, and related core activities of the Department of Fish and Game, the Department of Water Resources, and the State Water Resources Control Board.

Action 7.3.3: Find new revenue sources beyond the traditional bond funds or public allocations.

Strategy 7.4: Optimize use of the CALFED Record of Decision and Coastal Zone Management Act to maximize participation of federal agencies in implementation of the California Delta Ecosystem and Water Plan.

Action 7.4.1: Use existing authority under the CALFED Record of Decision to maximize participation of federal agencies in implementation of the *Delta Vision Strategic Plan* until the California Delta Ecosystem and Water Plan is completed.

Action 7.4.2: Prepare the California Delta Ecosystem and Water Plan according to guidelines of the Coastal Zone Management Act, in order to achieve ongoing federal consistency.

Other Plans and Submissions Required under SBX7 1

SBX7 1 requires completion of the following plans or proposals and their submission to the Council. Where the statute provides a date for completion it is included here.

Code Section Basis for Consideration by the Delta Stewardship Council	Plan, Proposal, or Other Submission
Public Resources Code section 29759	Economic sustainability plan to be prepared by the Delta Protection Commission no later than July 1, 2011
Public Resources Code section 32376	Strategic plan to be completed by the Delta Conservancy "…within two years of hiring an executive officer..."
Water Code section 85086	"…for the purposes of facilitating the planning decisions that are required to achieve the objectives of the Delta Plan...the State Water Resources Control Board is charged to develop flow criteria "…for the Delta ecosystem necessary to protect public trust resources." Scheduled to be determined within nine months of the enactment of this provision and transmitted to the Council within an additional 30 days. (ten months from November 2009 is September 2010)
Water Code section 85301	"A proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place, in a manner consistent with the coequal goals." To be prepared by the Delta Protection Commission, with specified contributions by the Department of Parks and Recreation and the Department of Food and Agriculture. No date for completion specified.
Water Code section 85309	The Department of Water Resources, developed in consultation with the United States Army Corps of Engineers and the Central Valley Flood Protection Board, proposal to coordinate flood and water supply operations of the State Water Project and the federal Central Valley Project. No date for completion

	specified.
Water Code section 85320	The Bay Delta Conservation Plan (BDCP), under specified conditions. No date for completion.
Water Code section 85305(b)("…emergency preparedness and response strategies…developed by the California Emergency Management Agency pursuant to Section 12994.5." Water Code section 85307 (b) "…local plans for flood protection." (c) "…in consultation with the Department of Transportation…effects of climate change and sea level rise on the three state highways that cross the Delta." (d) "…in consultation with the State Energy Resources Conservation and Development Commission and the Public Utilities Commission…actions to address the needs of Delta energy development, energy storage, and energy distribution." Water Code section 85350 ("…other completed plans…to the extent that the other plans promote the coequal goals."	The Act also includes provisions under which the Council can incorporate other plans or other documents which may include strategies or actions relevant to the Delta Plan, including the sections to the left.