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**DELTA STEWARDSHIP COUNCIL  
November 17-18, 2011  
Sheraton Grand Hotel (Gardenia Room)  
1230 J Street (13<sup>th</sup> and J Street), Sacramento, CA 95814**

**MEETING SUMMARY**

Note: Copies of all Council meeting agendas and links for all documents can be found at the DSC website, [www.deltacouncil.ca.gov](http://www.deltacouncil.ca.gov). Specific links are provided in the meeting summary for those items submitted at the meeting.

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***Thursday, November 17, 2011, 10:00 a.m. – 4:30 p.m.***

**1. Welcome and Introductions**

The meeting was called to order at 10:00 a.m., October 27, 2011, by Chair Phillip Isenberg.

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

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

**3. Chair's Report**

Following roll call and the establishment of a quorum, Chair Isenberg began his report by providing a brief update on information gathered from the morning's newspapers regarding the gloomy fiscal news on the budget for the next 18 months. According to the news, the state general fund budget is out balance about \$13 to \$14 billion which is not unexpected. Chair Isenberg explained that what is a bit unusual is that if those figures hold through December they will trigger automatic budget reductions including reductions to education of about \$2-\$4 billion. Chair Isenberg went on to acknowledge Dan Ray, new Chief Deputy Executive Officer for the Delta Stewardship Council who was in the audience. He also mentioned that the Council was making progress on filling other vacancies within the organization, and requested to move directly to the Executive Officer's Report for a further update.

**4. Executive Officer's Report**

Joe Grindstaff began his report giving an update on the new hire for the Chief Deputy Executive Officer position and other vacancies within the organization. Mr. Grindstaff directed the Council to a handout, included in the Board materials that listed the current status of all vacancies as of November 14 for all program areas. Mr. Grindstaff announced that the Council would be holding an additional work session on Covered Actions at the Delta Stewardship Council offices. The meeting notice and materials are posted on the Council's website at <http://www.deltacouncil.ca.gov/sites/default/files/documents/files/December%209th%20Covered%20Actions%20Work%20Session%20-%20updated.pdf>

### **a. Legal Update**

Chris Stevens introduced legal extern, Kurtis Keller, who provided the legal update. But before Mr. Keller began his update, Mr. Stevens announced that it was Mr. Keller's last appearance before the Council because he will be finishing his studies at UC Davis Law School, taking the bar exam and beginning his career as a new attorney. Mr. Stevens wanted to say publicly that Mr. Keller did a fantastic job and to thank Councilmember Marcus and Chair Isenberg for generating the interest in our agency and to thank the UC Davis Law school externship program for allowing Mr. Keller to work with the Council. With that Mr. Keller provided the legal update that is posted on the Council's website at:

[http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item%204a\\_November%20Legal%20Update.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item%204a_November%20Legal%20Update.pdf). The update is a summary of significant legal cases pending of interest to the Council, which are in addition to the salmon and smelt cases that are discussed every month.

### **5. Adoption of the September 22-23, 2011 Meeting Summary (Action Item)**

Chair Isenberg asked if there were any questions or comments from the Council, or members of the public, on the October 27, 2011 Meeting Summary – there were none.

It was moved (Nottoli) and seconded (Gray) to approve the meeting summary for the October 27, 2011 meeting. A vote was taken (5/0: Gray, Marcus, Fiorini, Isenberg, Nottoli) and the motion to approve the meeting summary was adopted.

### **6. Lead Scientists' Report**

Dr. Cliff Dahm discussed four items with the Council. Dr Dahm began by mentioning his attendance at a meeting that he had an opportunity to attend in Coeur d'Alene, Idaho, of the National Science Foundation (NSF) program called "Experimental Program to Stimulate Competitive Research" (EPSCoR). It was a program that involved 27 states and two U.S. territories and was designed to improve the science education and infrastructure. This Program has been going on for about three decades and meets on a regular basis. Dr. Dahm said the three themes at this year's EPSCoR conference included Water and Environment, Workforce Development and Energy. During the Water and Environment Plenary Session, Dr. Dahm gave a presentation titled, "Science Policy, Planning and Competing Goals in River Management" and used the Delta Plan as an important example where science, planning and policy development interfaced in substantive ways.

Dr. Dahm was asked to provide water and environment background on EPCOR States and gave them a little test of their knowledge which he also asked the Council:

The test included the following questions:

Q1: What are the two driest states in the United States? Nevada and New Mexico

Q2: What two states have the highest diversity of fresh water fish (# of species)? Tennessee and Kentucky

Q3: What five states lead in per capita water use? Idaho, Montana, Wyoming, Nebraska, Arkansas

For more information about the conference you can visit:

<http://www.certain.com/system/profile/web/index.cfm?PKwebID=0x2268429679&varPage=home>

Dr. Dahm continued his report and provided a brief update that early data indicates that more fall-run Chinook salmon are returning to the Central Valley streams to spawn than in recent years. He stated that although this year's observed salmon returns to date appear lower than

those observed in the early 2000's, Central Valley returns this fall look much more promising than in recent years.

The third item for discussion was a summary of a recent paper by Patricia Glibert et al. (2011) in *Reviews in Fisheries Science*. The paper explores the role of nutrient stoichiometry on food quality and food webs in the San Francisco Estuary. To access the Glibert et al. (2011) paper please visit: <http://www.tandfonline.com/doi/abs/10.1080/10641262.2011.611916#preview>

The final item for discussion was an overview and update on the current status of the El Nino (La Nina) Southern Oscillation (ENSO) phenomena. Dr. Dahm explained that La Nina conditions are currently present in the tropical Pacific Ocean and are expected to strengthen and continue through the Northern Hemisphere again this winter. To access the latest ENSO information please visit:

[http://www.cpc.ncep.noaa.gov/products/analysis\\_monitoring/enso\\_advisory/index.shtml](http://www.cpc.ncep.noaa.gov/products/analysis_monitoring/enso_advisory/index.shtml)

## **7. Update on the Lead Scientist's Appointment**

Mr. Grindstaff stated that the Council was in the process of negotiations with Dr. Peter Goodwin and hoped to have them completed in time to bring the appointment of a new lead scientist before Council at the December meeting.

## **8. Update from Delta Watermaster**

Mr. Craig Wilson, Delta Watermaster, provided an update (PowerPoint Presentation) on a report titled: Statements of Water Diversions and Use: Providing A Better Picture of Water Use in the Delta. The report discussed the creation of the Statements Program and its goal to maintain statements of water diversion and use. Mr. Wilson also addressed the role of the Delta Watermaster and his responsibility regarding implementing monitoring and reporting requirements. Mr. Wilson covered four main topics during his discussion: Relevance of the Statements Program to the Delta, History of the Program, Recent changes to the Program and Water Measurement Requirements. Mr. Wilson's presentation has been posted on the Council website at

[http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%208\\_%20Power%20Point%20Presentation\\_Statements%20of%20Water%20Diversions%20%20Use%20Slides%20for%20Nov%202011.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%208_%20Power%20Point%20Presentation_Statements%20of%20Water%20Diversions%20%20Use%20Slides%20for%20Nov%202011.pdf)

## **9. Update on Delta Plan Draft Environmental Impact Report (Draft EIR)**

Mr. Grindstaff stated staff released draft Programmatic EIR on November 4. The Council has set a 60-day deadline for comments ending January 2, 2012. Since the release of the EIR, there were 16 requests for extension of the comment period ranging from an additional 15 days to an additional 120 days. All of the requests for more time, most of which were in writing, were from a broad variety of people in the water community, environmental community and Delta residents. At the last meeting, there had been a discussion about scheduling field hearings but Mr. Grindstaff stated he did not want to schedule them without talking to the Council first. If the Council takes action to extend the comment period, Mr. Grindstaff said that they may want to move the field hearings to January.

Chair Isenberg requested Mr. Stevens give an overview of the EIR and its process before the Council discussed the possibility of extending the public comment period. Mr. Stevens explained the Draft EIR was released on November 4 and was now being circulated for public review and comment. Ms. Buchholz and Mr. Christophel, with contractor CH2MHill, presented a

PowerPoint that provided an update and ran through some of the logistics of the process. Mr. Stevens also provided a brief description of what the EIR was and was not. It is required under the California Environmental Quality Act (CEQA) for this type of legally enforceable Delta Plan. The draft EIR will be circulated for public comment in an attempt to refine the document. The Final EIR will contain responses to public comments received during the comment period. After Mr. Stevens completed his overview, Ms. Buchholz and Mr. Christophel provided a brief update. To access the PowerPoint presentation:

[http://www.deltacouncil.ca.gov/sites/default/files/documents/files/DeltaPlanEIR\\_PublicProcessUpdate\(Nov%2017\\_presentation\\_final\).pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/DeltaPlanEIR_PublicProcessUpdate(Nov%2017_presentation_final).pdf)

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

Pete Kutras, Delta Counties Coalition, asked to clarify his request that was put on record at the last meeting. Counties are seeking a total public comment period of 90 or 120 days to extend comment deadline to February 6 or March 5. He based his request on four primary factors: 1.) the unique and unusual length of document and that it is a programmatic draft EIR, 2.) the Counties do not have the resources to understand this document quickly, 3.) the counties are stretched thin and continue to be stretched, and 4.) the 100 year horizon - this is historic. Mr. Kutras also said the Coalition believes additional field hearings are an excellent idea. Finally he wanted to clarify comment that is in the minutes from the last meeting regarding "road show". What he wanted to suggest was once the EIR is certified and the Delta Plan adopted, then spend an additional couple of weeks and go out and educate the state on what we are about to embark upon.

John Kingsbury, Mountain Counties Water Resources, supported the extension of the comment period from 60 to 90 days. Mr. Kingsbury stated any additional time that the Council could give to properly respond would be appreciated.

Brett Baker, Restore the Delta, supported the extension of 120 days to March 6.

Following the public comment period, the Council discussed whether to extend the comment period for the Draft EIR and also discussed the field hearings. The discussion regarding the extension for comment period ranged from adding an additional 30 to 60 days. Chair Isenberg asked if there was a motion.

It was moved (Marcus) and seconded (Gray) to direct the staff to issue supplemental notices to add an additional 30 days to the existing 60-day period, for a total of 90 days. A vote was taken (4/1: Gray, Marcus, Fiorini, Isenberg – aye, Nottoli – no) and the motion to add an additional 30 days to the public comment period was adopted.

### **10. Public Hearing on the Draft EIR**

At 1:00 p.m., the Public Hearing to take oral comments on the Delta Plan Draft EIR began and a court reporter was available to transcribe the oral comments from members of the public for inclusion in the EIR formal public record. Oral comment on the Delta Plan Draft EIR was provided by: Burt Wilson; Mark Rentz, Association of California Water Agencies; Jim Verboon, Verboon Farms; and Becky Linvill. Comments were transcribed for inclusion in the EIR formal public record. Following testimony from all those in the audience wishing to provide comments, the public hearing was recessed at 1:36 p.m. with the option to reconvene if additional members of the public wishing to comment arrived prior to the stated 4:30 adjournment time. The court reporter, staff and several Council members (Isenberg, Fiorini, and Marcus) remained at the

hearing location until 4:30 p.m. and the hearing was reconvened solely for the purpose of stating on the record that no additional commentors had arrived.

**The meeting was adjourned at 4:30 p.m.**

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***Friday, November 18, 2011, 9:00 a.m. – 3:30 p.m.***

## **12. Call to Order**

The meeting was called to order at 9:00 a.m., November 18, 2011, by Chair Phillip Isenberg.

## **13. Roll Call – Establish a Quorum (Water Code §85210.5)**

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

## **14. Approval of Science Program Contract with California Sea Grant Program for the Next Class of Delta Science Fellows**

Since 2003, the Delta Science Program, in collaboration with California Sea Grant, has supported six classes of graduate and postdoctoral research fellows working on Delta related projects. A new \$1.8M multiyear contract with University of California, San Diego Sea Grant Program will allow funding of 11-12 new Science Fellows. The fellows will work with Delta agency scientist and senior academic research mentors to collaborate on research of direct relevance to the Delta Stewardship Council goals of maintaining a reliable water supply and improving ecosystem health. More information on the Delta Science Fellows program is available on the Council's website at:

[http://www.deltacouncil.ca.gov/delta\\_science\\_program/research/research\\_fellow.html](http://www.deltacouncil.ca.gov/delta_science_program/research/research_fellow.html)

Chair Isenberg asked if there were any questions or comments from the Council, there were none. It was moved (Gray) seconded (Nordhoff) to direct the Executive Officer to execute an agreement with the Sea Grant (UCSD) for the next class of Delta Science Fellows. A vote was taken (6/0: Nordhoff, Gray, Marcus, Fiorini, Isenberg and Nottoli) and the motion was approved.

## **15. Panel Discussion on Stressors in the Delta**

At the request of Councilmember Fiorini, the Delta Science Program invited four experts to provide their insights on Delta Stressors to the Delta Stewardship Council in support of improving the Delta Plan Chapter 5, Restore the Delta Ecosystem and Chapter 6, Improve Water Quality to Protect Human Health and the Environment. The four panelists included Ellen Hanak, Senior Policy Fellow, Public Policy Institute of California; Chris Foe, Staff Environmental Scientist, Central Valley Regional Water Quality Control Board; Carl Wilcox, Regional Manager, Bay-Delta Region, California Department of Fish and Game; and Bruce Herbold, Fisheries Biologist, U.S. EPA Region 9. These experts discussed a broad spectrum of ecosystem stressors including water quality impairment, diversions and altered flow, insufficient habitat quality and quantity, and non-native invasive species effects including predation and food web impacts.

Following the panel presentation, the Council entered into a discussion and determined that stressors needed to be included in the Delta Plan, in particular, in the Governance Chapter. The

Council also requested that Dr. Hastings and Mr. Grindstaff return at the December meeting with a comprehensive bulleted list of the information that was presented from all of the panelists; possibly put into a priority list of three to five stressors. ~~The Council felt that inevitably they will want to propose in the immediate or near-term actions those stressors they feel have a unified government emphasis.~~

#### **16. Council Recommendations on Department of Fish and Game Proposed Striped Bass Regulation and Department of Pesticide Regulation Proposed Pyrethroid Regulatory Action**

Carl Wilcox, Department of Fish and Game and John Sanders, Department of Pesticide Regulation provided information and staff recommendations for Council comments on (1) California Department of Fish and Game (DFG) proposed changes to striped bass sport fishing regulations, and (2) California Department of Pesticide regulation (DPR) proposed pyrethroid pesticide regulatory action.

The discussion began with the proposed pyrethroid regulatory action. The PowerPoint Presentation was posted on the Council website at [http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2016\\_Power%20Point%20Presentation.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2016_Power%20Point%20Presentation.pdf)

At the conclusion of the presentation by Mr. Sanders, Council members entered into a discussion and determined that they should submit a letter by the comment period and bring it back to the December meeting as a follow up.

Chair Isenberg asked if there were any questions or comments from the Council; there were none. It was moved (Fiorini) seconded (Marcus) in support of submitting comments to the Department of Pesticide Regulation on the proposed pyrethroid regulation by the December 12<sup>th</sup> comment closure date. A vote was taken (5/0: Nordhoff, Marcus, Fiorini, Isenberg, Nottoli) and the motion was adopted.

Following the pyrethroid discussion Mr. Wilcox from Department of Fish and Game provided an update on proposed changes to the striped bass sport fishing regulations. The draft DFG striped bass regulation changes are available at <https://nrmsecure.dfg.ca.gov/FileHandler.ashx?DocumentID=39586> . Mr. Wilcox explained that the deadline for public comments had been extended passed the original December 12, 2011 date.

Chair Isenberg suggested the following motion that was seconded by Councilmember Fiorini to direct staff to proceed with drafting a letter on behalf of the Council regarding the proposed regulations which includes the following measures:

- Support the adoption of Fish and Game striped bass regulation
- Regulation needs to be associated with adaptive management
- Request for reissuance of bass tags
- Terms and conditions need to be quantifiable, measurable and addresses the timeline of the next five to ten years.

The letter will be brought back to the Council in December for review and approval prior to submission to the Department of Fish and Game.

#### **Public Comments on Agenda Item 16:**

Michael Boccadaro – Coalition for a Sustainable Delta, stated they were the Plaintiffs in litigation against Department of Fish and Game and were in support of the striped bass proposal.

### **17. Update on Bay Delta Conservation Plan (BDCP)**

Ms. Nemeth updated the Council on the BDCP work in progress on major elements that impact the Delta and also discussed the EIR/EIS schedule that was released by Secretary Salazar and Secretary Laird over the summer. Ms. Nemeth discussed the Alternatives for BDCP effects analysis process. The schedule is available at:

[http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2017\\_%20EIR\\_EIS%20Schedule.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2017_%20EIR_EIS%20Schedule.pdf); and the BDCP effects analysis is available at: [http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2017\\_%20Overview.pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Agenda%20Item%2017_%20Overview.pdf).

### **18. Public Comment**

Linda Dorn, Sacramento Regional County Sanitation District, thanked Dr. Hastings for putting together such a great panel on stressors. She also wanted to clarify the removal of mercury TMDL and to let the Council know that different treatment technologies and processes are being looked at with wastewater treatment plants. Ms. Dorn suggested the water quality chapter use mercury as a pilot project regional monitoring program but that the recommendation should be date-specific instead of open-ended as it is now.

Pete Kutras, Delta Counties Coalition, summarized what he felt the Council would hear once the BDCP is submitted to them. The counties continue to engage in conversations with Ms. Nemeth and Dr. Jerry Meral on a more meaningful role for the counties in BDCP. He stated it was unprecedented to create an HCCP and NCCP without the involvement of government entities within the project area and they continue to try to get significant changes with regards to governance. Mr. Kutras also stated they did not agree to the aggressive timeline as well and said they would like the federal-state MOA withdrawn.

John Kingsbury, Mountain Counties Water Resources Association, felt that statewide funding is needed for Sierra/Cascade watershed.

Mark Rentz, Association California Water Agencies, thanked the Council for having the stressors panel. He believed these are the kinds of panels that are needed. He believed that the Delta ISB might be able to assist in how success is measured in a multi-variable problem. Mr. Rentz felt that the discussions were very useful and hoped the Council will continue them in the future.

**The meeting was adjourned at 2:07 p.m.**