

***DRAFT 2/28/2011 – SUBJECT TO CHANGE
For Review and Adoption by DSC at 3/24-25/2011 Meeting***

**DELTA STEWARDSHIP COUNCIL
February 24-25, 2011
MEETING SUMMARY**

DAY 1: Thursday, February 24, 2011, 9:00 a.m. – 3:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 10:00 a.m., February 24, 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 for the meeting: Nordhoff, Johnston, Gray, Fiorini, Isenberg, Nottoli and Marcus.

3. Chair's Report

Chair Isenberg provided a brief update to the Council regarding a potential appearance before the Council by Dr. Jerry Meral, Deputy Secretary for the California Natural Resources Agency. Dr. Meral needed to reschedule the appearance due to scheduling conflicts. In addition, John Laird, Secretary for Natural Resources Agency will be addressing that Council in the future. Isenberg asked the Council to examine the recently issued Public Policy Institute report on the Delta, which he felt was very interesting and encouraged the Council to review the report. Isenberg also mentioned that Members Fiorini and Nottoli would be addressing a water conference in Southern California. Isenberg stated that speaking requests are increasing and members will be called upon for presentations in various locations throughout the state.

4. Executive Officer's Report

Keith Coolidge represented Executive Officer Grindstaff who was ill.

a. Legislative and Legal Update

Curt Miller presented the Legislative Update, including discussion of AB 157 (Jeffries), which amends SBX72 (Cogdill, 2009) by reducing from 11.4 billion to 8.35 billion the total amount of water/Delta bonds to be presented to the voters in 2012.

Christopher Stiles, the Council's legal extern, presented a report on the status of the consolidated salmon and smelt cases, and the recent California Supreme Court decision on regulatory fees. This summary is posted at http://www.deltacouncil.ca.gov/delta_council_meetings/february_2011/Item_4a_Legal_Update.pdf

5. Adoption of January 27-28, 2010 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions or comments from the Council or members of the public about the February meeting summary. As there were none, it was moved (Gray) and seconded (Nottoli) to approve the meeting summary. The vote was (5/0) and the motion passed.

6. US EPA Presentation on its Advanced Notice of Proposed Rulemaking for Water Quality Issues in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary

Keith Coolidge introduced Erin Foresman and Tom Hagler, from US Environmental Protection Agency, Region 9. EPA is seeking public comment by April 25, 2011, on an advance notice of proposed rulemaking on possible EPA actions that address water quality conditions affecting aquatic resources in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Following the presentation, Hagler and Foresman responded to comments and questions from the Council. The Council directed the Science Program staff to review the document and report their findings. The Council will then send a formal comment letter.

Included in the meeting materials were the Fact Sheet for the Advanced Notice of Proposed Rulemaking, the Federal Register of the Advanced Notice of Proposed Rulemaking for Water Quality Challenges in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, the Advanced Notice of Proposed Rulemaking for Water Quality Challenges in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, and Frequently Asked Questions.

7. Delta Plan Development (Note: This item will be continued on Friday, if necessary) (Action Item)

Jim Andrew, Deputy Attorney General, was introduced by Chief Council Chris Stevens. Andrew gave a presentation on CEQA and the Delta Plan that covered the purpose of a CEQA review of the Delta Plan EIR and the steps for completing an EIR of the Delta Plan and having the Plan adopted as a state regulation under the APA. Following Andrew's presentation, he responded to comments and questions from the Council on the CEQA/APA process.

The meeting recessed for lunch at 12:30 and reconvened at 1:30.

The first preliminary staff draft of the Delta Plan was posted on the Council website Monday, February 14, 2011. Keith Coolidge presented the first preliminary draft, saying it was designed to put the key findings and conceptual strategies on the table for the Council to discuss and receive input from stakeholders and the public. Each of the Council members gave staff their comments on the draft Delta Plan. Following the general comments, the Council went through each chapter of the draft, requesting clarification, making comments and suggesting changes. The Delta Plan was discussed through Chapter 5.

8. Public Comment

Dr. Robert Pyke stated he is a supporter of both farmers and fishermen. Dr. Pyke stated he has submitted extensive written comments on the first staff draft and did not repeat the technical points except to note that the policy on dredging and dredge disposal -- issues that are relevant to all five physical elements of the Delta Plan are missing from both his comments and from the first staff draft. His comment letter is posted at http://www.deltacouncil.ca.gov/docs/correspondence/2_2011/delta_plan_drafts/Robert_Pyke_022111.pdf

Greg Zlotnick, State and Federal Contractors Water Agency, presented joint comments on the first draft Delta Plan on behalf of the State and Federal Contractors Water Agency and the San Joaquin River Group Authority. Zlotnick provided the Council with Attachment 2 of the formal comments that are being submitted in writing. The joint comments are posted at http://www.deltacouncil.ca.gov/docs/correspondence/2_2011/delta_plan_drafts/SJRGASFCWA_021411.pdf

Zlotnick stated he believes there is enough water in the state if it is managed properly. He believes any lack of water is due to infrastructure deficit and lack of operational flexibility. He also stated the Delta Plan needs to do a better job of answering the charge of the legislation by asking and answering these questions – 1. What does it authorize? 2. What does it direct the Council to do?

Jonas Minton, Planning and Conservation League, commended the Council on three things it is doing right – the open and transparent process, being the first agency to admit that California has over allocated its water resources, not only surface but groundwater; and the call for rapid development of new flow standards for the Delta. Minton offered a process recommendation “don’t sweat the small stuff” and suggested starting the process with the big issues. Minton’s concerns are that the draft does not mention environmental justice, does not define water supply reliability, and regarding financing the Council should learn from the BDCP and CALFED experience. The written comments Minton provided to the Council are posted at http://www.deltacouncil.ca.gov/docs/correspondence/2_2011/delta_plan_drafts/CoalEnvEJFish_022411.pdf

Bob Whitley, Contra Costa Council, commented on emergency response, flood and levee failure risks. He also spoke about Risk Management Strategy and seven components – public education on levee risk; emergency preparation; response to failure – how do counties respond; a need for a triage process of island failure to determine if the land is worth saving; have a recovery program for the damaged area (public/private arrangement); a priority system for planned levee capital improvement projects; and a mechanism to review after every flood event, the strategies and lessons learned. Whitley also suggested a change in the current terminology for Chapter 6 of the Delta Plan to risk management instead of risk reduction.

Greg Gartrell, Contra Cost Water District, commented on climate change and climate variability. Gartrell stated that this requires a different way of managing storage and stressed the need for more storage to achieve the co-equal goals. He urged immediate actions regarding projects and facilities and stressed the need for emergency preparedness and cited a BDCP modeling exercise.

Doug Wallace, East Bay Municipal Utilities District, commented on the draft Delta Plan, Chapters 4, 10, and 11. Wallace also stated he is eager to see the Council's thought process on the finance section. Regarding adaptive management, Wallace stated he believes it is tied to science and also to governance but that the governance section is the driver. He questioned who would make the major decisions.

Jim Verboon, Verboon Farms, stated he believes there is enough water in the system if it is managed properly, and questioned EPA’s involvement at this late time. He stated that the groundwater overdrafts are a regional problem.

Bill Hinsley, PBS&J, commented on his experience in Louisiana, and the Coastal Zone Management Act (CZMA) consistency. He urged the Council to consider adding text related to §85300 which was consistent with Federal law and include facts regarding the value of the Delta

for the nation. Hinsley also stated that great work has been done on the federal perspective on governance and cross-cut budgets (financing) and could be used as examples.

Barry Nelson, Natural Resources Defense Council, commented on the need for a financing plan. Nelson stated he believed it is critical to tackle the financing issues and figure out what are realistic options. He stated the new administration is working hard on BDCP issues; however, there isn't a plan on how to resolve those issues or how they come together.

Todd Manley, Northern California Water Agency, commented on the over subscription of water and stated it is an issue of scale. He also commented on regional balance and sustainability and that natural hydrology is critical for meeting the co-equal goals. Manley presented the Council with written comments that are posted at http://www.deltacouncil.ca.gov/docs/correspondence/2_2011/delta_plan_drafts/NCWA_022411.pdf

The meeting concluded for the day at 4:30 p.m.

DAY 2: Friday, February 25, 2011, 9:00 a.m. – 3:30 p.m.

9. Call to Order

The meeting resumed at 9:00 a.m., with Chair Phillip Isenberg presiding.

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

Roll call was taken and a quorum was established. The following members were present for the meeting: Nordhoff, Gray, Fiorini, Isenberg, Nottoli, Johnston, and Marcus.

11. Lead Scientist's Report

The Lead Scientist's Report was presented by Dr. Cliff Dahm and updated the Delta Science Program's process for developing research grant funding recommendations for the 2010 Proposal Solicitation Process (PSP). Dr. Dahm indicated 13 of the submitted 49 proposals will be brought to the Council for approval at its March 24-25, 2011 meeting.

12. Delta Independent Science Board Report

Dr. Richard Norgaard, Chair of the Delta Independent Science Board, briefed the Council on the activities of the ISB. Dr. Norgaard said the ISB has started reviewing the Basis of Findings for the First Staff Draft Delta Plan. The ISB will be reviewing the second draft at its April board meeting – looking forward to Chapter 4.

13. Delta Plan Development (Continuation of Agenda Item 7, if necessary)

Terry Macaulay, Gwen Buchholz and David Christophel began the discussion and responding to comments from the Council. General comments focused on Chapters 5, 6, 8 and 9 were heard from the Council. Chapters 7, 10, 11 and 12 will be submitted later.

Council Member Fiorini provided five key points that he believes the Council would like to see in the Delta Plan. 1. Simplify the findings. 2. Findings should feed into the policies which should feed into the recommendations/regulations; he stated the Council needed to focus on the

policies. 3. To remember that the Delta Plan is a regulatory plan. 4. The format should be left up to the consultants. 5. Need to be clearer on policy issues; he stated the San Francisco Bay Plan serves as a good model.

Council Member Nordhoff provided his recommendations about process he believes the team should focus on a what, why and how format and have the recommendations prioritized. 1. What are you going to do? (Which would be your policy statement.) 2. Why are you going to do it? 3. How are you going to get it done? (The how is what is involved and how are you going to pay for it and what alternatives were considered). He stated that the problem that we have is that we do not have recommendations yet and he suggests rather than writing the Delta Plan out that the consultants/staff should consider using an outline format capturing the essence of what is most important.

Council Member Marcus agreed with Council Member Nordhoff and also stated that she believes we will not have the essential details until we go through the EIR process.

Council Member Gray requested that team make sure the Delta Plan is a legally defensible plan.

One common theme from Council members was the need for funding. Where will it come from? Who is responsible for making it happen?

14. Public Comment

Greg Zlotnick, State and Federal Contractors Water Agency, commented on discussion of the draft Delta Plan, saying today's discussion was informative and helpful. Regarding Grindstaff's comment that water contracts for exports are covered actions, SFCWA assume that it also apply to any upstream diversion that requires a license. Does this affect any State Board decision and the State Board's role? Zlotnick also pointed out that if other areas of the plan are framed as regulations, SFCWA would be interested in Chris Stevens' opinion on the exemption process for covered action appeals.

Mark Rentz, Association of California Water Agencies, shared four comments. 1. Supports Member Nordhoff's suggestion of a three-tiered approach and believes it is a good skeletal approach and made suggestions on the wording. 2. Need to begin considering existing venues to address concerns. 3. Look at stressors as integrated as opposed to independent perspective. 4. State findings more succinctly as opposed to expansive description. Rentz also commented on prioritizing the stressors.

Valerie Kincade, San Joaquin River Group, will submit written comment. The Group believes the discussion of stressors is very important is now a small section but need to weight. Kincade stated they also feel that mention of illegal diversions should be in both the Water Reliability and Ecosystem Restoration sections. San Joaquin River Group would like to participate in March 10-11 Workshop panels.

15. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests of other agencies; (d) other requests from Council members; and (e) confirm next meeting date – March 10-11, 2011 Workshop in Clarksburg at the Old Sugar Mill.

The meeting adjourned at 11:40 a.m.