

DELTA STEWARDSHIP COUNCIL
December 13, 2012
Ramada Inn & Suites
1250 Halyard Drive, West Sacramento, CA 95691

MEETING SUMMARY

December 13, 2012, 9:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 9:01 a.m., December 13, 2012, 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: Hank Nordhoff, Patrick Johnston, Gloria Gray, Randy Fiorini, Phillip Isenberg, and Don Nottoli.

3. Chair's Report

Chair Isenberg made brief statements on the recently released study on the Colorado River related to water supply and demand. Chair Isenberg explained for more than a decade there has been a tremendous effort to identify water supply and match it with demand. The USGS prepared maps showing that demand exceeded supply. This latest update is a powerful analytic tool that is causing reevaluation of assumptions by Southern California water districts and they will have to evaluate what the study means in terms of their planning and how it will indirectly have an impact on the Delta. The Colorado River Basin Water Supply and Demand Study is posted on the U.S. Bureau of Reclamation's website at

<http://www.usbr.gov/lc/region/programs/crbstudy/finalreport/index.html>

4. Executive Officer's Report (Information Item)

Executive Officer Christopher Knopp began by announcing the release of the final draft Delta Plan two weeks ago after two years of hard work. He congratulated all for the accomplishment. Mr. Knopp briefly discussed the open positions for which the Council has begun the recruitment process. Next, Mr. Knopp updated the Council on the preliminary planning meeting for implementation committee that was held with staff from Department of Water Resources, Department of Fish and Game and the Bureau of Reclamation. They discussed potential roles and responsibilities to ensure that the implementation committee, once established, would add value. Mr. Knopp described how the roles of the Council will shift once the Delta Plan is adopted and provided a brief description of the roles of the Council, Science, Adaptive Management, the agencies, etc.

Finally, Mr. Knopp also shared his thoughts from ACWA and CFEF conferences he recently attended. Mr. Knopp stated it was time to solve problems and make something happen.

4a. Legislative and Legal Update

There was no Legal Update.

The Legislative Update was presented by Jessica Pearson, who made brief remarks on the spot bills that were introduced and on the new two-year session that will begin on January 7, 2013. There was a 25 percent turnover of legislators and the Democrats hold the majority in both houses. Beginning in spring, Ms. Pearson expects the Council to conduct meet-and-greets with the new members. Ms. Pearson discussed the budget and the shortfall the State will likely need to deal with.

Following the Legislative Update, Chair Isenberg asked if there were any members of the public who wished to comment – there were none.

5. Adoption of the November 15, 2012 Meeting Summary (Action Item)

Chair Isenberg asked if there were any questions, suggestions or comments from the Council or public regarding the November 15, 2012 Meeting Summary – there were none.

Chair Isenberg requested two corrections on page 5 of the meeting summary. First, he requested “rescinded” be changed to “withdrawn” in the Vote on the Original Motion and the error corrected in the title of 8a, making it read Delta Stewardship Council’s Approach **in** its BDCP EIR Review.

The revised meeting summary is posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_5_November_15_2012_Amended_Meeting_Summary.pdf

Motion: (Offered by Nottoli; seconded by Johnston) to approve the November 15, 2012 meeting summary as amended.

Vote: (6/0: Nordhoff, Johnston, Gray, Fiorini, Isenberg, Nottoli) and the motion was adopted.

The video showing this vote can be found at: http://dsc.videoss.com/archives/121312/Agenda_Item_5_Archive_Segment_Number_3_of_23_at_01:04.

6. Delta Independent Science Board Report (Information Item)

ISB Chair Richard Norgaard presented the Delta ISB Report. Dr. Norgaard briefed the Council on the Delta ISB’s public meeting held on November 29-30, 2012 that included the reviews the ISB is conducting on Delta habitat restoration projects and how they

have accommodated climate change and adaptive management. He then described the virtual tour of the Delta that was done at the ISB meeting, using Google Earth. The virtual tour, which began in Suisun Marsh and ended at the Yolo Bypass, was well received by those in attendance. Dr. Norgaard stated that it became evident to the Board how water management was part of the restoration process and how the integration of water and land management was necessary as they both had great influence on restoration projects in the area and further downstream. Dr. Goodwin also made brief comments on the morning dialog that took place at the ISB meeting. Dr. Norgaard briefed the Council on the Draft Charge to the Delta ISB for Review of the Draft BDCP EIR/S (Attachment 1) and the overlapping issues involved. Dr. Norgaard stated the Delta ISB has prepared a memo that provided comments on the Bay-Delta Science Conference and how it could be improved in the future.

Throughout the presentation, Dr. Norgaard answered Council members' questions and provided clarification. Following the presentation, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 6:

Erik Ringelberg, Local Agencies of the North Delta, commented on the charge to the ISB. Mr. Ringelberg stated there was no other entity that looked at projects at the landscape level and it was his hope that it is the Delta ISB and the Delta Science Program would do the synthesis. Mr. Ringelberg suggested two modifications that he felt would strengthen the ISB charge – one was to look at the BDCP EIR/S in context to the coequal goals, he felt a stronger starting point would be to ask if the BDCP is consistent with the coequal goals and where it could be strengthened to meet the coequal goals. The second modification addressed the Statutory Question (number 1) in Draft Charge, Mr. Ringelberg suggested the ISB study BDCP and make sure that it met all aspects of Section 2820 of the Fish and Game Code.

7. Delta Plan (Water Code §85300(a)) (Information Item)

Cindy Messer, Delta Plan Program Manager, lead the discussion of Agenda Item 7. Ms. Messer was joined by Ellen Garber, Steve Hatchett and Gwen Buchholz. Ms. Messer began the discussion of Agenda Item 7 by asking Mr. Knopp to provide his remarks before she began with an overview of the Final Draft Delta Plan and the Recirculated DPEIR. Mr. Knopp briefly discussed the anticipated aggressive timeline. He stated the latest schedule called for the Plan's regulations to be in effect in July 2013 assuming it is approved by Office of Administrative Law.

7a. Overview of Final Draft Delta Plan, Recirculated Draft Programmatic Environmental Impact Report (Volume 3) and Schedule

Before the panel discussion of Agenda Item 7a, Mr. Stevens discussed the comment period, which is 45 days and stated it was likely the Council would receive requests to extend the comment period. Mr. Stevens noted the presentation given today was an overview and the Council would discuss, in general, the draft Delta Plan, the

Recirculated DPEIR, and draft Rulemaking package. He also stated that since the 45-day comment period on CEQA and rulemaking had begun, the focus of the discussions would be on the overall process. A Rulemaking hearing is scheduled January 24, 2013. Council member Nottoli and Mr. Stevens discussed the possibility of extending the comment period and how an extension would affect the timeline.

Ellen Garber and Gwen Buchholz briefed the Council on the DPEIR, describing the process between now and when it comes back for certification. Ms. Garber stated that Volume 3, released on November 30, 2012 evaluates the environmental impacts of the final draft Delta Plan and also explained what "recirculated" meant in terms of CEQA.

Throughout the update of Agenda Item 7a, the panel answered Council members' questions and provided clarification.

7b. Proposed Delta Plan Rulemaking Package

Ms. Messer and Steve Hatchett provided the Council with an overview of the rulemaking process which will make the proposed policies in the Delta Plan enforceable state regulations. Mr. Hatchett also gave an overview of the economic and fiscal impacts that may result from implementation of the proposed regulatory policies.

The Notice of Proposed Rulemaking was published in the California Regulatory Notice Register on November 30, 2012, commencing the 45-day public review and comment period. During this time all interested parties have the opportunity to send written comments to the Council on the proposed regulations. A rulemaking hearing is scheduled on January 24, 2013, after the written comment period closes on January 14, 2013. It is anticipated that in winter of 2013, staff and Council will review comments, the Council will provide final direction on any necessary revisions to the Proposed Rulemaking Package; in spring 2013, the Council would adopt the Regulations. Then, in the summer of 2013, the Delta Plan regulations would take effect after approved by OAL and completion of the state rulemaking process.

Throughout the discussion, Mr. Hatchett answered Council members' questions and provided clarification.

Motion: (Offered by Nottoli; seconded by Gray) prior to January 14, 2013, schedule and hold a public hearing to receive public testimony on any aspects including the Delta Plan; Supplemental Environmental Impact Report and Proposed Rulemaking Package.

Vote: (6/0: Nordhoff, Johnston, Gray, Fiorini, Isenberg, Nottoli) and the motion was adopted.

The video showing this vote can be found at: <http://dsc.videossc.com/archives/121312/> Agenda Item 7 Index 4. Archive Segment Number 13 of 26 at 14:12 – 16:13.

Following the discussions of Agenda Item 7b, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 7b:

Audrey Patterson, San Joaquin Tributaries Authority, requested to comment on Item 7b. Ms. Patterson requested clarification of the OAL process, specifically if the January 24 hearing would be an open hearing where there would be responses considering the comment period would be closed. Mr. Stevens stated there would be no responses. At this hearing, testimony could be provided and the comments as well as the responses to the comments would be included in the final Statement of Reasons. Ms. Patterson asked if the final OAL package would include the comments or just the final Statement of Reasons. Mr. Stevens stated as part of the final Rulemaking Package, included would be the final Statement of Reasons, the adopted regulations and included in the final Statement of Reasons would be the list of all the comments received and responses to the comments as part of the Rulemaking File. Mr. Stevens stated the determination of how the comments and responses are categorized will be done once the nature of the comments are reviewed. All documents both written and verbal will be included in the Rulemaking File and Office of Administrative Law will review the regulations based on the entire Rulemaking File.

Greg Zlotnick, State and Federal Contractors Water Agency, commented on Item 7b, the OAL package development. He requested clarification on how the cost analysis was developed, what the impact of implementation of the plan and regulations of the plan was. Mr. Hatchett explained how the analysis was done on a policy by policy basis. Mr. Zlotnick discussed special districts and how OAL would look at the cost assessment and the implications of the assessment. Mr. Zlotnick commented on WR P1 and how it related to water management planning and reduced reliance on the Delta, how it was reflected and if it needed to be assessed. Finally, Mr. Zlotnick requested clarification on the hearing and if there was any expectation of changes to be made after hearing comments. Mr. Stevens responded that the hearing was on the regulations.

7c. Continued Review on Near-Term Strategies for Implementation of the Delta Plan

Ms. Messer began the discussion of Agenda Item 7c by explaining the criteria for selecting the near-term strategies and high priority actions. Carl Lischeske joined Ms. Messer and briefed the Council on the next phase of Near-Term Strategies, things that can and should be done in the next five to ten years while the larger water conveyance and habitat restoration projects are being brought on line. At the November Council meeting, staff was directed to develop more detailed descriptions of priority actions that implement the near-term strategies. Staff held discussions with DWR, DFG, the Water Board, Delta Conservancy and the DPC, to request more specific information. Attachment 3 provided a preliminary list of ongoing and planned projects and programs, including an estimated budget, permit status, and timeline. Mr. Lischeske stated the list will evolve over the coming months and it was anticipated that it would be ready for review at the implementation committee meeting this spring.

Campbell Ingram, Executive Officer of the Sacramento-San Joaquin Delta Conservancy joined Mr. Lischeske to brief the Council on a list of near-term projects compiled to

benefit the Delta ecosystem and community. The list included descriptions of the projects and estimates of costs and schedule to implement.

Throughout the discussion, Mr. Lischeske heard suggestions such as how to improve the wording on the revised strategies and other suggestions from Council members like applying criteria to the listing that would tell where to start, what to do, etc., and answered Council members' questions and provided clarification.

Following the discussions of Agenda Item 7c, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 7c:

Charles Gardiner, Delta Vision Foundation, requested to comment on Item 7c and commended the Council for their continued efforts on the near-term efforts. He stated clear goals and objectives were essential. He also commented on the cross-cut budget, stating it just talked about expenditures but needed to measure more actions, similar to what the Foundation had done with their report card. Mr. Gardiner gave an example on highlighting a project such as levee improvements brought up to HMP standards.

Without objection from the Council, Agenda Item 9, Delta Science Program, was taken out of order and heard at the conclusion of Public Comment for Agenda Item 7c, before the lunch recess.

9. Delta Science Program

Dr. Goodwin presented the Lead Scientist's Report that included an update on a completed independent review of the 2012 Long-term Operations Opinions for the National Marine Fisheries Service. The report provided recommendations to the agencies for making science based adjustments to the Reasonable Prudent Alternatives. Information on the report is posted on the Council website at <http://deltacouncil.ca.gov/events/science-program-review/2012-long-term-operations-opinions-annual-review-0>

Next, Dr. Goodwin discussed the California Sea Grant State Fellows program. Two fellows, Emily Mortazavi and Katie Morrice will join the Delta Science Program in January 2013. They will work on Delta science policy topics and support the Delta ISB.

Dr. Goodwin briefed the Council on the ongoing planning and development of the Delta Science Plan. He presented a PowerPoint that has been posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_9_Lead_Scientist_Presentation_0.pdf. The presentation covered the latest Delta Science Plan concepts, including responses to Council recommendations from the November Council meeting and next steps.

Throughout the Lead Scientist's Report, Dr. Goodwin answered Council members' questions and provided clarification. Following the report, Chair Isenberg asked if there were any members of the public who wished to comment – there were none.

The Council recessed for lunch at 12:45 p.m. to 1:55 p.m. When the meeting was reconvened, Chair Isenberg announced the date for the additional hearing as directed by the Council in the motion approved before the lunch break, had been confirmed. The additional hearing will be held on January 11, 2012, from 1-3:30, at the DSC offices, 980 9th Street, Sacramento.

*The video showing this can be found at: <http://dsc.videosscc.com/archives/121312/>
Agenda Item 11 Index 1. Archive Segment Number 19 of 26 at 00:08 – 01:22.*

8. Presentation from State and Federal Contractors Water Agency on the Lower Yolo Ranch Restoration Project (Information Item)

Dan Ray introduced Agenda Item 8 and Byron Buck, State and Federal Contractors Water Agency, Phil Pogledich, Yolo County Board of Supervisors, Ron Unger, DWR, and Scott Shapiro, representing the Reclamation District 2068. Mr. Buck began by explaining the aspects of the current biological opinion and the goals of the proposed restoration effort as well as how the project fits into the Delta Plan. Mr. Buck stated the project provided opportunities for public access and recreation and it appears to be a promising project – protecting public safety, providing economic resources and protecting natural resources in the valley. The PowerPoint presented on the Lower Yolo Ranch Restoration Project is posted on the Council website at http://deltacouncil.ca.gov/sites/default/files/documents/files/Item_8_Presentation_Lower_Yolo_Ranch_Restoration_Project.pdf. Phil Pogledich discussed the project from the County's perspective. He stated the county was concerned about the loss of farmland and the economic impact. He also discussed the Williamson Act in regard acquisition of the land and spoke about a moratorium on restoration projects that has recently expired and now the county was looking at use permits and the long term stewardship of property after the project is completed. Next, Ron Unger spoke on flood concerns and explained the department's roles and responsibilities for the project. Scott Shapiro discussed permitting in the flood control area. Mr. Shapiro stated Reclamation District 2068 would like to support the project, finding it very interesting and having the potential to be a "win-win".

Throughout the presentation, the panel answered Council members' questions and provided clarification. Following the discussion of Agenda Item 8, Chair Isenberg asked there were any members of the public who wished to comment.

Public Comment – Agenda Item 8:

Erik Ringelberg, Local Agencies of the North Delta, commented on streamlining the permitting process. Mr. Ringelberg began by commending the panel for their work and funding and moving the regulatory process forward. Mr. Ringelberg said there were two simple ways of streamlining – regional-general permit process available through the

Corps that he has work with – and within that DFG and the Regional Board have general permit processes that are linked together. Mr. Ringelberg feels that packaging permits together in order to avoid doubling and tripling the permit process when an individual permitting process is used. Since, this is one geographic area with one set of impacts Mr. Ringelberg stated he has asked the Delta Conservancy to look into doing a program EIR. He felt it would be good to have one program EIR that would allow them to do restoration and at the most tier off of it. Mr. Ringelberg also spoke on the cost of permits and urged the Council to spend time looking at the financial impacts if the costs of making adjustments to the cost of the projects.

10. Public Comment

Chair Isenberg asked if there were any members of the public who wished to provide public comment – there were none.

11. Preparation for Next Council Meeting – Discuss (a) expected agenda items; (b) new work assignments for staff; (c) requests from Council members; and (e) confirm next meeting date – hearing on January 11, 2013, at 980 9th Street, Second Floor Conference Room, Sacramento, CA 95814.

The meeting adjourned at 4:30 p.m.