

DRAFT 9/30/11 – SUBJECT TO CHANGE
For Review and Adoption by DSC at October 27, 2011 Meeting
DELTA STEWARDSHIP COUNCIL
September 22-23, 2011
West Sacramento City Hall Galleria
1110 West Capitol Avenue, West Sacramento, California

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. Specific links are provided in the meeting summary for those items submitted at the meeting.

Thursday, September 22, 2011, 9:00 a.m. – 4:30 p.m.

1. Welcome and Introductions

The meeting was called to order at 9:00 a.m., September 22, 2011, by Chair Phillip Isenberg and acted as a committee of the Council, with Members Phil Isenberg, Gloria Gray, and Randy Fiorini present.

At the discretion of the Delta Stewardship Council, items on the agenda were heard in a different order. Agenda Item 8, originally scheduled for Thursday was rescheduled to Friday, at 9:00 a.m. Agenda Items 10 and 11 were taken out of order on Thursday with Item 11 occurring before Agenda Item 10. Agenda Item 17, scheduled to be heard on Friday, was heard on Thursday.

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

A quorum was established at 9:14 a.m. The following members were present for the meeting: Don Nottoli, Phil Isenberg, Randy Fiorini, Gloria Gray, and Patrick Johnston. Absent: Hank Nordhoff and Felicia Marcus.

3. Chair's Report

Following the roll call, Chair Isenberg moved directly to the Executive Officers Report.

4. Executive Officer's Report

Joe Grindstaff began his report by mentioning the completion of four September work sessions - and announced that another work session on Covered Actions would be scheduled at a later date (likely two weeks after the release of the EIR). Written summaries from the sessions were prepared and are posted on the Council website at <http://www.deltacouncil.ca.gov/delta-plan>. Mr. Grindstaff also mentioned that he is continuing discussions with Department of Finance and Department of Water Resources regarding the budget to support implementation of the Delta Plan.

a. Legislative and Legal Update

The Legislative Update was presented by Curt Miller. Mr. Miller provided a brief update and stated additional legislative information would be presented at the October meeting as the

Legislature just finished its 2011 session. The list of legislation of interest to the Council was included in the meeting materials. Chair Isenberg stated he sent a letter to Governor Brown expressing his position in support of SB 834 (Wolk) and requested Mr. Miller assemble a package on SB 834 and brief the Council on the legislation, on Friday morning, September 23, 2011 immediately following the Delta Protection Commission presentation.

The Legal Update was presented by Kurtis Keller, the Council's legal extern. Mr. Keller briefed the Council on the consolidated smelt cases in Judge Wanger's court. Mr. Keller stated on August 31, 2011, Judge Wanger ruled that "No Fall X2 Action setting the X2 target west of 79 km shall be implemented. All other requirements of the Action, including the timing of the Action and the mechanisms for its measurement, shall remain unchanged." The ruling was followed by a court-ordered preliminary injunction against full implementation of the Fall X2 Action on September 2 which is being appealed. Mr. Keller's update is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_4a_Legal_Update_3.pdf

5. Adoption of the August 26, 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 August 26, 2011 Meeting Summary – there were none.

It was moved (Nottoli) and seconded (Fiorini) to approve the meeting summary for the August 26, 2011 meeting. A vote was taken (5/0: Johnston, Fiorini, Isenberg, Gray, and Nottoli) and the motion to approve the meeting summary was adopted.

6. Delta Vision Foundation Report Card

Delta Vision Foundation President Sunne Wright McPeak, and Executive Director Charles Gardiner, briefed the Council on the Foundation's 2011 Delta Vision Report Card. Ms. McPeak explained how the Foundation had been formed as an independent body to continue to advance the set of recommendations and strategies proposed in the Delta Vision Strategic Plan. The Delta Vision Strategic Plan recommended a comprehensive set of integrated and linked actions to achieve the two coequal goals. The importance of effective coordination to integrate efforts and link actions in a way that will achieve the two coequal goals was also emphasized. Ms. McPeak and Mr. Gardiner discussed the Near-term Actions, Mid-term and Long-term Actions and answered Council members' questions and provided clarification on many points. Ms. McPeak described the Foundation's recommended actions and both Mr. Gardiner and Ms. McPeak spoke on the Foundation's commitment in working with the Council and its role in implementing the Delta Plan. The 2011 Report Card is posted on the Delta Vision Foundation's website at www.deltavisionfoundation.org. Ms. McPeak and Mr. Gardiner heard comments from the Council members and answered questions and provided clarification.

Public Comment on Agenda Item 6:

No initial comments were heard on this item. Following the questions posed by Council Member Gray and hearing the response from Ms. McPeak, Jonas Minton asked to comment. Jonas Minton, Planning and Conservation League, felt Ms. McPeak comments were perceptive and stated he believed Ms. Wright McPeak brought a sense of urgency that was sorely lacking. Mr. Minton agreed with the near-term actions stating that the near-term actions were doable and has found that there is growing recognition that something needed to be done regarding Delta as a Place and Water Supply Reliability.

7. Delta Diablo Sanitation District – West Side Intake Concept

Gary Darling, General Manager of the Delta Diablo Sanitation District, made a presentation to support a request to analyze a new Delta water supply from the western Delta that could supplement or replace portions of the water supply obligations of the SWP and the CVP. His PowerPoint on the Western Delta Diversion posted on the Council's website at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_7_PowerPoint_Presentation.pdf gave an overview of the Delta Diablo Sanitation District, its theme and recommended approach. It also covered study results completed to examine issues such as costs to desalinate, adaptability and reliability of a Western Delta Diversion during a drought, sea level rise, levee failure, etc.

Following the presentation Mr. Darling took questions from the Council and provided clarification. At the conclusion of Mr. Darling's presentation, Chair Isenberg called for questions or comments from the public.

Public Comment on Agenda Item 7:

Maureen Martin, Contra Costa Water District, updated the Council on a study to be conducted to evaluate desalination at the Mallard Slough intake. Ms. Martin stated the study was to begin as soon as the Memorandum of Understanding with the partner agency was signed. Ms. Martin stated they would be happy to submit the report once it is developed. Martin also stated the district is involved in a regional plan with other water districts that will evaluate the feasibility of conveyance projects and through Delta transfers would also be evaluated.

Following public comment on Agenda Item 7, Council member Gray asked a follow-up question of Ms. McPeak on Agenda Item 6 asking for examples of near-term actions that meet the coequal goals. Ms. McPeak was asked to return to the table to respond. Ms. McPeak gave some examples such as emergency preparedness and prepositioning materials in order to restore the Delta estuary and ensure water supply reliability after an emergency. Another example Ms. McPeak gave was to assume a 55 inch sea level rise when planning, building and improving levees in the Delta. She also responded to questions about a strategic levee system to protect the estuary and exports.

8. Delta Protection Commission Economic Sustainability Plan

Agenda Item 8 was originally scheduled to be heard on Thursday morning was held over to Friday due to conflicting meetings as requested by Mike Machado, Executive Director of the Delta Protection Commission. Agenda Item 8 was rescheduled to Friday, September 23, 2011, at 9:00 a.m.

9. Lead Scientist Report

Dr. Dahm began his report by discussing the future of the Delta Science Program. Dr. Dahm stated the mission of the Science program was to provide the best possible unbiased scientific information to inform water supply and environmental decision making in the Delta. He explained how the Delta Science Program accomplished this mission and suggested in order for it to continue to meet its mission and to support the implementation of the Delta Plan, he recommended reorganization of the program into four units, with research programs integrated into each unit. Dr. Dahm explained the four units would operate with a high degree of coordination and communication among themselves and with other agencies and organizations.

Dr. Dahm gave an estimate for an annual budget (\$20M) needed for the units and associated research.

The four suggested units were:

- Unit 1 - Expert Panels, Workshops, Peer Review, and Support of the Delta Independent Science Board;
- Unit 2 - Delta Plan Early Consultations, Consistency Determinations, Planning of Adaptive Management, and Adaptive Management Implementation;
- Unit 3 - Performance Measures, Effectiveness Evaluation, and Science Communication; and
- Unit 4 - Modeling, Analysis, Synthesis, and Integration.

Dr. Dahm updated the Council on the Adaptive Management of Fall Outflow for Delta Smelt Protection and Water Supply Reliability (Fall X2 Action). Dr. Dahm briefed the Council on Judge Wanger's rulings and the court-ordered preliminary injunction against the full implementation of the Fall X2 Action that was being appealed. The Court orders and draft plan for the Adaptive Management of Fall Outflow for Delta Smelt Protection and Water Supply Reliability can be found at <http://www.fws.gov/sfbaydelta/ocap/>

The final update from the Lead Scientist's report was on the recent scientific findings on nutrient availability and wetland restoration. Dr. Dahm explained how certain nutrients can lead to unfavorable outcomes for wetland restoration when compared to historical conditions. A publication released recently in the Journal of Geophysical Research Letters by Kearney et al. (2011) highlighted these points. The paper can be accessed at <http://www.agu.org/pubs/crossref/2011/2011GL047847.shtml>.

Following the Lead Scientist's report, Chair Isenberg called for questions and comments from the Council members and public.

Public Comment on Agenda Item 9:

Greg Zlotnick, State and Federal Contractors Water Agency, commented on the Science Program budget. Mr. Zlotnick suggested using a "TBD" rather than a \$20M figure until the plan is developed. He also felt that an inventory of actions the ISB was studying would be beneficial.

10. Delta Independent Science Board Report

Agenda Item 10 was taken out of order and Agenda Item 11 was heard first.

11. Lead Scientist Candidate Recruitment

Dr. Richard Norgaard discussed the recruitment for the Lead Scientist candidate, stating that a potential candidate had been identified. On August 31, Dr. Peter Goodwin, University of Idaho, was interviewed for the position by a selection panel that consisted of agency stakeholders and Delta ISB representatives. The panel recommended considering Dr. Goodwin for the position. During a closed session of the Delta ISB meeting on September 1, the Delta ISB met with Dr. Goodwin, then discussed his qualifications and recommended that he be appointed to the Lead Scientist Position. Dr. Norgaard stated his intention was to bring his formal recommendation of Dr. Goodwin back to the Council at the October 27-28, 2011 meeting for Council approval.

Following the update on the status of the recruitment, Chair Isenberg asked if there were any questions or comments from the Council or members of the public - there were none.

10. Delta Independent Science Board

Dr. Norgaard, briefed the Council on the Delta ISB's review of the fifth staff draft. The Delta ISB discussed the fifth staff draft and preliminary comments were drafted during the September 1-2 meeting. The comments were finalized by the Delta ISB at its September 13 teleconference. The Delta ISB had four broad recommendations on integration, adaptive management, monitoring needs and performance measures and science needs and chapter by chapter recommendations that Dr. Norgaard walked the Council through. The Final recommendations made by the Delta ISB are posted at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_10_Attachment_2_Final_Synthesis_Recommendations_DISB_5thStaffDraftDeltaPlan.pdf

Public Comment on Agenda Item 10:

Greg Zlotnick, State and Federal Contractors Water Agency, commented on the fifth staff draft Delta Plan. Mr. Zlotnick stated in Chapter 4, one caution from their perspective, the policy and science was blurred. Mr. Zlotnick submitted written comments that are posted on the Council's website at <http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Zlotnick%20Letter%20to%20Norgaard%20%2009-16-11.pdf>

Jonas Minton, Planning and Conservation League, commented on the Delta ISB's review of the fifth staff draft Delta Plan. Mr. Minton felt the objectives of the coequal goals should be defined (page 8) with a more direct statement and the recommendations lacked a definition of water supply reliance (page 9) and stated that reduced reliance on the Delta is a policy issue and also needed to be defined - Mr. Minton stated water supply reliability was not the same as reduced reliance and he believed the definition was a policy question.

Mark Rentz, Association of California Water Agencies, stated he felt while Dr. Norgaard's report hits on integration on the context of integrating issues affecting the coequal goals, as well as integrating science into the analytical process, he felt there was a third aspect of integration that the Council should play a critical role in – integration and coordination among state, federal and local agencies with authorities and responsibilities in the Delta.

Following public comment on Agenda Item 10, the Council recessed for lunch at 12:15 p.m. and resumed the meeting at 1:20 p.m.

17. Delta Plan Development

As discussed and approved by the Council, Agenda Item 17 was taken out of order and heard after lunch break.

Chris Stevens briefed the Council on a preliminary draft of proposed regulations based upon the policies contained in the fifth staff draft Delta Plan. He stated that the draft was prepared for illustrative purposes only. Mr. Stevens stated that the proposed regulations that the Council directs staff to submit to Office of Administrative Law to start the rulemaking processes will be supplemented by a Notice of Proposed Regulatory Action, an Initial Statement of Reasons, and a Fiscal Impact Analysis. Mr. Stevens anticipated the preliminary drafts of these supplemental documents will be presented to the Council at the October meeting, again for illustrative

purposes only. The Preliminary Draft of Proposed Regulations are posted on the Council's website at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_17_Attach_1_Delta%20Plan%20regulations%20-%20draft%20-%20revised%20092111.pdf

Keith Coolidge then briefed the Council on the summaries of comments received during the four stakeholder work sessions that focused on the various aspects of the fifth staff draft Delta Plan. Mr. Coolidge stated the purpose of the work sessions was to discuss various aspects of the Delta Plan with Council members, stakeholders, and staff. The work sessions focused on Success and Performance measures, Covered Actions and Governance, Economic Sustainability and Delta as an Evolving Place and the Finance Plan. The summaries of the September 2011 work sessions are posted on the Council website at

<http://www.deltacouncil.ca.gov/delta-plan>

Following Mr. Coolidge's briefing, Chair Isenberg asked if there were any questions or comments from members of the public.

Public Comment on Agenda Item 17:

Greg Zlotnick, State and Federal Contractors Water Agency, thanked the staff for putting together the work sessions. Mr. Zlotnick had a comment on the OAL process and schedule, requesting clarification on the process, the timeline on the EIR and comment period and questioned when the Plan would be adopted. Mr. Zlotnick asked what sort of feedback on the draft OAL package was requested, and was the Council looking for specific language at this time.

Pete Kutras, Delta Counties Coalition, expressed his appreciation on behalf of the Counties for the work sessions. Mr. Kutras felt they were very informative and the first steps toward future coordination roles. Mr. Kutras had concerns with the covered actions and the covered action process and submitted comments that are posted on the Council website at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/DCC_091511.pdf

Mr. Kutras shared the intent of his language. Regarding implementation of the Delta Plan, Mr. Kutras stated the Counties would like a seat at the table and wondered how they could be involved in the process.

Mark Rentz, Association of California Water Agencies, expressed his appreciation for the work sessions and also felt another session/discussion on Covered Actions was needed – he appreciated the format of the work sessions and had received feedback from ACWA's member agencies. Mr. Rentz requested clarification on the OAL review process with regards to the Statement of Reasons and its role.

12. Public Comment

Following the public comment on Agenda Item 17, Chair Isenberg asked if there were any members of the public wishing to comment – there were none. Chair Isenberg decided to conclude the meeting at that point and begin with the DPC presentation, at 9:00 a.m., on Friday followed by a discussion of the Council's Position on SB 834.

The meeting was adjourned for the day at 2:44 p.m.

Friday, September 23, 2011, 9:00 a.m. – 3:30 p.m.

13. Call to Order

The meeting was called to order by Chair Phillip Isenberg at 9:02, operating as a committee of the Council with Members Gloria Gray, Randy Fiorini, and Phillip Isenberg present.

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

A quorum was established at 9:05 a.m. The following members were present for the meeting: Don Nottoli, Phil Isenberg, Randy Fiorini, Gloria Gray, and Patrick Johnston. Absent: Hank Nordhoff and Felicia Marcus.

8. Delta Protection Commission Economic Sustainability Plan

Agenda Item 8 was originally scheduled to be heard on Thursday morning however, as agreed by the Council, Agenda Item 8 was taken out of order and heard at 9:00 a.m.

Mike Machado, Executive Director for the Delta Protection Commission, along with Jeff Michael, provided an update on the Commission's Economic Sustainability Plan and provided an explanation of their commitment and role working with the Council in implementing the Delta Plan. The Council was provided with a letter dated September 16, 2011, from Mike Machado to Joe Grindstaff that responded to the comments provided on the August 9, 2011 draft of the Delta Protection Commission's Economic Sustainability Plan. The letter is posted on the Council's website at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_8_Attachment_2_9_16_1_Letter%20to%20JG_RE_August_9_ESP.pdf

Mr. Machado and Mr. Michael briefed the Council on the DPC held the day before (Thursday, September 22) and the schedule of future meeting leading to the release of the ESP. The ESP is scheduled to be released in October. Mr. Machado and Mr. Michael gave the Council an overview of the staff draft and highlighted the major changes between the drafts. The comments received on the ESP are posted on the DPC website at

http://www.delta.ca.gov/ESP_Comments.htm

Following the presentation, Chair Isenberg asked if there were any members of the public who wished to comment on Agenda Item 8.

Public Comment on Agenda Item 8:

Tom Zuckerman, Central Delta Water Agency, emphasized the importance of the Economic Sustainability Plan and stated the water legislation asked the DPC to assemble experts without predispositions to take an academic look at issues in the Delta. He felt the water legislation had in mind for the Council to be informed by the ESP and urged the Council to use a staged approach and let the science catch up.

Greg Zlotnick, State and Federal Water Contractors, agreed with Mr. Zuckerman on the effort that went into the development of the ESP. Mr. Zlotnick felt there was clear direction included in the water legislation and there were specifics in the legislation that he felt should be included in the Plan and cited the legislation. Mr. Zuckerman felt the Commission did a report based on an agenda rather than the legislation. Mr. Zuckerman stated he felt the document contained a

good economic analysis of the Delta but also was a critique of the Delta Plan, BDCP, legislation, etc.

4. Executive Officer's Report

a. Legislative Update (Continued from Thursday, September 22, 2011)

Agenda Item 4a was continued from Thursday as agreed by the Council. Chair Isenberg requested Mr. Miller assemble and distribute a package on SB 834 that included Chair Isenberg's letter of September 9, to the Governor, expressing his personal position on the legislation, the bill analysis and text of the bill. Mr. Miller provided the Council with the documents that are posted on the Council website at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Wolk_Letter.pdf

Mr. Miller stated SB 834 (Wolk) would require an integrated water management plan to identify the manner in which it furthers the state policy of reducing reliance on the Delta in order to meet future water supply needs of California. The action would be taken by investing in improved regional supplies, conservation and water uses efficiency. As Chair Isenberg stated in his letter, the requirement complements the water supply reliability policies the Council had developed in the current draft of the Delta Plan and was consistent with the elements of the 2009 Water bill package adopted into law. Following Mr. Miller's briefing, Chair Isenberg suggested the Council take a position on the legislation and convey it to the Governor.

It was moved (Johnston) and seconded (Nottoli) to send a letter to the Governor regarding the Council's position on SB 834. A Vote was taken (5/0: Johnston, Fiorini, Isenberg, Gray, and Nottoli) and the motion was adopted. Staff prepared and sent the correspondence as directed by the Council. It is posted on the Council's website at

[http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Gov.%20Jerry%20Brown%20Regarding%20Support%20for%20SB%20834%20\(Wolk\).pdf](http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Gov.%20Jerry%20Brown%20Regarding%20Support%20for%20SB%20834%20(Wolk).pdf)

15. DWR – Delta Flood Emergency Preparedness, Response and Recovery Program

The Department of Water Resources is currently developing the Delta Flood Emergency Preparedness, Response and Recovery Plan. Geoff Shaw, from DWR's Flood Operation Branch, presented a PowerPoint on the development status, schedule, background and relevance to the Delta Plan. Mr. Shaw also briefed the Council on how the plan would interact with the emergency planning agencies within the state and federal system. Following the presentation, Mr. Shaw took questions from the Council and provided clarification. The PowerPoint has been posted on the Council's website at

http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Item_15_Delta_Flood_Emergency_Preparedness_Response_and%20Recovery_Program.ppt.pdf

Following Mr. Shaw's presentation, Chair Isenberg asked if there were any question or comments from the public – there were none.

16. State Water Resources Control Board – Process for Adopting Flow Objectives Criteria

At the August meeting, the Council requested clarification regarding the Fifth Staff Draft's policy on flow requirements and an explanation of the State Water Resources Control Board's process for determining water quality flow objectives for the Delta and its tributaries. Council Member Fiorini had asked if there was a different process for determining water quality flow requirements for each tributary, and if there was a separate process for determining Delta flows in contrast to determining tributary flows. Mr. Fiorini felt it was important to understand all of the relevant processes. Mr. Stevens suggested inviting the State Board back to make a presentation to the

Council on its flow-setting processes, mindful of the Fifth Staff Draft's policy regarding updated flow requirements.

Les Grober, SWRCB, briefed the Council on the Board's processes to establish both regulatory flow objectives and non-regulatory flow criteria, and discussed the Board's ongoing and anticipated flow-setting activities relevant to the Delta and the greater Delta Watershed. Mr. Grober responded to the Council's questions and provided clarification. Following Mr. Grober's presentation, Chair Isenberg asked if there were any questions or comments from the public.

Public Comment on Agenda Item 16:

Pete Kampa, Tuolumne Utilities District, commented on the issuance of water rights permits during the interim period that could occur during the standard setting process. He also requested clarification on flow criteria. Mr. Grober explained flow criteria and standard setting process for Mr. Kampa. Mr. Kampa felt there could be a socio-economic effect should also be considered up front. The Tuolumne Utilities District submitted a letter that includes their position on Flows and Water Rights. It is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/TUD_092911.pdf

Joone Lopez, Calaveras County Water District, requested to address Council Member Johnston's question about the backlog at the State Board. Ms. Lopez believed from their District's perspective, the process was backlogged and went on to describe the District's experience waiting for three years for approval for one of its projects. The District submitted written comments that discussed water rights. The letter is posted on the Council website at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/Calaveras_CWD_093011.pdf

John Woodling, Sacramento Regional Water Authority, commented on the schedule for setting new flow objectives-- and felt it was appropriate for the Council to give a date. He also felt that it would be beneficial to focus on successful local and regional activities taking place on the tributaries and gave examples some activities. Mr. Woodling felt that ER P1 proposed an unrealistic timeframe for completion of new flow objectives for the Delta and tributaries. Mr. Woodling stated that work should be done in a manner that is well founded in science and balances the coequal goals and that proposing an unattainable timeframe and calling for a moratorium on water rights when it is not met, has no benefit to either of the coequal goals. The RWA submitted written comments that are posted on the Council's website at http://www.deltacouncil.ca.gov/sites/default/files/documents/files/RWA_092011.pdf

17. Delta Plan Development

Agenda Item 17 was taken out of order and presented on Thursday, September 22. There was no further discussion of this agenda item.

18. Public Comment

Chair Isenberg asked if there were any members of the public wishing to address the Council – there were none.

19. 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 – October 27, 2011, at the West Sacramento City Hall Galleria.

The meeting was adjourned at 1:00 p.m.