

Final Staff Draft Delta Plan

Summary: This report transmits the final staff draft Delta Plan. A 30 day public comment period on the final staff draft Plan began May 14. All comments received by Wednesday, June 13, 2012 will be considered for revisions made in developing the Council's final Delta Plan.

At this meeting staff will brief the Council on the draft and what has changed between the fifth draft released last fall and now. In addition, the Council will meet June 14-15 to receive public comments on this draft and discuss it in greater detail. It is staff's recommendation to then make revisions based on Council direction and bring any final changes to the Council for approval at the June 28-29 meeting.

Changes to the final staff draft Delta Plan approved by the Council at the second June meeting would then serve as the basis for recirculating a supplement to the Environmental Impact Report describing environmental impacts of the final draft plan. It also would serve as the basis for submittal of policies to the Office of Administrative Law (OAL) as part of the process to give those policies regulatory effect.

Background

The Delta Reform Act requires the Council to prepare and adopt a legally-enforceable Delta Plan to further the coequal goals, which are defined by the Act as "the two 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" (Water Code section 85054). The Act also specifies eight objectives that are "inherent" in the coequal goals (Water Code section 85020); a related statewide policy to reduce reliance on the Delta in meeting the State's future water supply needs through improved regional self-reliance (Water Code section 85021); and certain specific content requirements for the Delta Plan (see generally Water Code sections 85301-85309).

The Act also gives the Council regulatory jurisdiction – through a consistency process with the Plan's policies – over proposed state and local Delta-related actions that, among other things, have a significant impact on the achievement of the coequal goals (referred to as "covered actions").

Accordingly, this final staff draft Delta Plan, through its suite of 14 regulatory policies and 68 recommendations, furthers the coequal goals and the inherent objectives in a manner consistent with the Act.

About the Final Staff Draft

The final staff draft Delta Plan is the sixth in an iterative series of public drafts that reflect staff's recommendation for an enforceable Delta Plan that meets the requirements of the Delta Reform Act and direction provided by the Council. It also reflects consideration of comments and recommendations from more than 250 stakeholders. In addition, the fifth staff draft was the basis of a Programmatic Environmental Impact Report process and comments submitted through that process have been used to inform this final staff draft.

This final staff draft plan presents a common sense approach to identifying the complex challenges in the Delta and provides a roadmap of policies and recommendations to achieve the coequal goals of restoring the Delta ecosystem and providing for a reliable water supply for California in a manner that protects and enhances the unique character of the Delta as an evolving place. Accordingly, the staff presents a Delta Plan that is practical, foundational, integrated and adaptive.

Practical: The Delta Plan builds on years of planning efforts and incorporates actions, recommendations, and strategies developed by other entities—governmental and non-governmental—that have already invested countless hours on Delta issues and have specialized expertise.

Foundational: The Delta Plan addresses intertwined challenges and trade-offs and establishes foundational actions for Delta management throughout this century. It lays the groundwork for near-term actions for improvement and focuses on the immediate avoidance of further harm or increased risk to the Delta. The Plan shines a spotlight on urgently needed Delta habitat projects and the significant potential for local and regional water supply development. Similarly, the Plan seeks to immediately halt practices known to be detrimental to the sustainability of the Delta's many functions and services.

Integrated: The Delta Plan establishes an open and accountable governance mechanism for coordinating actions across agency jurisdictions and statutory objectives.

Adaptable: The Delta Plan sets direction through policies and recommendations that can incorporate other plans and new information as it becomes available. Informed by science and consistent monitoring, portions of the Plan that do not adequately meet or make progress toward stated goals over time will be refined or revised. The Plan will be updated at least every five years.

Although we will discuss the specifics of each chapter in detail later in this report, the following are key action highlights from the final staff draft Delta Plan:

- **Reduce reliance on water from the Delta watershed** by investing in improved local regional supplies, conservation and water use efficiency. Water supply

reliability will be increased through better water management throughout California, including more conservation, diversification of water supplies, improved Delta conveyance and expansion of groundwater and surface storage.

- **Improving water supply reliability** will likely mean modifying water operations in the Delta so that exported water will more closely match water supplies available to be exported, based on water year type and consistent with environmental protections. This means that more water will be diverted from the Delta during wet years and stored for later use, while less water will be diverted during dry years when conflicts with the Delta ecosystem are more likely.
- **Complete and successfully permit the Bay Delta Conservation Plan** as soon as possible to begin the conveyance and ecosystem improvements needed to achieve the coequal goals.
- **Update Delta water quality objectives** by June 2014, and propose new Delta watershed water quality objectives for high-priority tributaries by 2018.
- **Restore habitats in five high priority locations** in the Delta and Suisun Marsh to recover endangered species, rebuild salmon runs and enhance other wildlife. The Delta Plan recommends actions to reduce pollution and invasive species, and the impacts of other ecosystem stressors.
- **Protect the Delta as a unique place** by locating new urban development in urban and urbanizing areas, and protecting rural lands for agriculture. Designate the Delta as a National Heritage Area and protect historic communities.
- **Improve flood preparedness and emergency response** by creating a Delta Flood Risk Management Assessment District with the authority to impose appropriate fees for local costs of flood management actions. A unified local decision-making body will be more effective than the commendable but uncoordinated efforts of more than 100 flood control entities in the Delta.
- **Reduce Delta exposure to flood risk** by enhancing the Yolo Bypass, improving the Cosumnes River-Mokelumne River Confluence, establishing the Lower San Joaquin River Floodplain, and the use of setback levees where feasible. The Delta Plan also prohibits encroachment on floodplains and locating new subdivisions on flood-prone rural lands.
- **Set state priorities for investment in Delta flood protection by 2015** State investment in flood protection must be appropriate to the uses of land to be protected. The recommendations will be based on the principle that beneficiaries pay, and will include a calculation of the state's interests. The plan recommends that private sector beneficiaries also help pay for flood protection improvements.

- **Set an example by using best available science** and adaptive management and requires that others do the same so that projects can move forward in a way that is efficient and allows decision making in the face of uncertain conditions.

Specifics of This Draft and What's Changed From the Last Draft?

The plan sets a unified and integrated direction for managing Delta resources and achieving the coequal goals. It restricts actions that may cause harm to the Delta, and it highlights activities that should be completed right away to benefit the Delta and water supply reliability. The final draft Delta Plan's chapters correspond to direction provided in the Delta Reform Act regarding the coequal goals and various objectives. Set forth below, by chapter, is a high-level summary of the chapter and a discussion of some of the changes from the fifth draft. Also included as Attachment 2 is a chart showing the changes from the fifth staff draft in the policies and recommendations through which the Delta Plan will be implemented.

In general, chapters related to water supply reliability, ecosystem restoration and preserving the unique character of the Delta were expanded to better explain and provide rationale for the policies and recommendations, and to acknowledge the current work already being done in these policy areas. A "science needs" section is now included in each chapter to identify information gaps, and to recommend data gathering to inform future iterations of the Delta Plan. A section titled "issues for future evaluation and coordination" was added to identify ideas that may have merit for policies or recommendations, but were not ready to be included in the Delta Plan at this time.

This version also contains revised performance measures, and it establishes a process to continue to improve them after the plan is adopted. The Executive Summary was revised to reflect final staff draft changes.

Chapter 1 – Introduction

A more concise, higher-level introduction that discusses the relevance of the Delta to California's overall water supply and the history of changes that have had an effect on the Delta's ecosystem as well as the way of life and livelihood for its residents. It discusses what it means for the Delta to "be in crisis" and previews the policies and recommendations discussed in detail in succeeding chapters.

Chapter 2 – The Delta Plan

Formerly two separate chapters on governance and adaptive management, this new chapter describes the Council's various roles in developing, implementing and updating the Delta Plan, along describing the role of the new interagency implementation committee. This chapter also contains information about the regulatory aspects of the Delta Plan.

Chapter 3 – Provide A More Reliable Water Supply for California

This chapter addresses the strategy, policies and recommendations needed to make progress toward achieving the coequal goal of a more reliable water supply for California, consistent with the coequal goal of protecting, restoring and enhancing the Delta ecosystem and preserving the Delta as place. It describes how water supply reliability for the state will be improved through better management of California's water resources, including increased conservation and water efficiency, more local and regional water supply development, better groundwater management, improved Delta conveyance, and more groundwater and surface storage, both north and south of the Delta. In this way, water use will better match available supplies. Reliance on water from the Delta watershed will be reduced through local management actions at the same time that water deliveries from the Delta become more reliable.

Key Changes Include –

- Clarification of what is meant by water supply reliability (approved by Council)
- WR P1 (reduced reliance on the Delta) was significantly revised to address concerns about the complexity of the policy and how it would be implemented. WR R1 (implement water efficiency laws) and WR R4 (expand Water Supply Reliability Element) address actions that were previously part of WR P1 and are now included in the Delta Plan as recommendations.
- WR R3 (compliance with reasonable and beneficial use, formerly WR R5) was modified to address concerns raised by stakeholders on how this recommendation would be implemented.
- WR R14 (improve water transfer procedures) and WR R6 (update water efficiency) goals were added to address stakeholder recommendations.
- WR R16 (supplemental water use reporting) was revised to address Delta Watermaster recommendations.

In addition, the chapter now identifies priority issues that should be further evaluated and brought back to the Council for action. These include:

- Development of a Delta Export Delivery Predictability Index that depicts by hydrologic year types the estimated inflows to the Delta and the range of exports that would be consistent with in-Delta and Delta ecosystem protections. As part of the index, a system for tracking the use of stored Delta water should also be developed.
- Development of additional measures that will contribute to reduced reliance on water from the Delta watershed, especially those, that when implemented in the Delta and the upper watershed, will benefit the Delta.

- Expansion of integrated water resource management programs and how integrated water infrastructure contributes to improved water supply reliability in the state.

Chapter 4 – Protect, Restore and Enhance the Delta Ecosystem

This staff draft clarifies that the coequal goal of ecosystem protection, restoration and enhancement will be achieved when the Delta once again functions as an estuary that supports native species and is resilient to the human and natural disturbances and stresses. The Delta Plan's approach to protecting, restoring and enhancing the Delta ecosystem is to address multiple ecosystem stressors since there is no single stressor that can be addressed as a silver bullet to restore the ecosystem. The Plan's strategies for restoring the ecosystem include policies and recommendations organized under the core strategies of creating more natural and functional water flows in the Delta, protecting and restoring key habitat, improving water quality to protect the ecosystem, preventing and managing nonnative species and improving hatcheries and harvest management. The final staff draft recognizes that we can't recreate the Delta of the past, but we can improve its functioning as an estuary. Timely implementation of identified priority habitat restoration projects will need to occur in a collaborative fashion.

Key Changes Include –

- Provided definitions for ecosystem preservation, restoration and enhancement.
- Increased emphasis on multiple stressors and the integrated nature of stressor impacts, including new recommendations for hatcheries and harvest management.
- In ER P1 refined language and removed statements about what the Council might do if the SWRCB doesn't meet the deadlines for new flow objectives.
- Clarified what is meant by more natural flows, including narrative and a sidebar.
- Provided an adaptive management example related to ecosystem restoration.
- Provided a more detailed map outlining the five priority restoration areas and limited ER P3 (protect opportunities to restore habitat) to those areas.
- Additional sidebars: map showing the three historical ecology landscapes, Delta ecological principles and Delta ecosystem restoration efforts underway.

Chapter 5 – Protect and Enhance the Unique Cultural, Recreational, Natural Resources, and Agricultural Values of the California Delta as an Evolving Place

The Delta is a unique place characterized by its geography of waterways and levee-bounded islands, small towns, expanding cities, agriculture and opportunities for

recreation and tourism. The Delta's uniqueness, however, does not exempt it from the increasing pressures of growing populations, shifting commodity markets, climate change and rising sea levels that will require adaptation. Protecting the Delta as an evolving place means accepting that change will not stop, but that the fundamental characteristics and values that contribute to the Delta's special qualities can be preserved and enhanced while accommodating these changes. The final staff draft recognizes that all actions must be achieved in a manner that protects and enhances the values and unique but "evolving" characteristics of the Delta.

The final staff draft proposes five core strategies for protecting and enhancing these values:

1. Designate the Delta as a special place worthy of national and state attention.
2. Plan to protect the Delta's lands and communities. The Plan calls for new urban development in the Delta to be limited to areas that current city or county general plans designate for development in cities, or their spheres of influence or legacy communities.
3. Maintain Delta agriculture as a primary land use, a food source, a key economic sector, and a way of life.
4. Encourage recreation and tourism that allows visitors to enjoy and appreciate the Delta and that contribute to its economy.
5. Sustain a vital Delta economy that includes a mix of agriculture, tourism, recreation, commercial and other industries, and vital components of state and regional infrastructure.

Key Changes Include – The principal changes from the fifth to the final staff draft arise from review of the Delta Protection Commission's (DPC) economic sustainability plan. In response to its recommendations, the final staff draft Delta Plan includes new emphasis on respecting local land use when locating water or flood facilities or restoring habitats, encouraging acquisition of rights of way from willing sellers, when feasible, protecting agriculture, and maintaining the ports of West Sacramento and Stockton. The plan also notes the DPC's role as a voice for the Delta in the council's review of actions to implement the Delta Plan and includes a distinct process for this input. Other changes from the fifth staff draft include the addition of maps depicting urban and urbanizing areas, Legacy Communities, and rural areas planned for agriculture or other open space uses in local land use plans. Additions to the Delta Plan's narrative offer guidance on interpreting the plan's land use maps.

Chapter 6 – Improve Water Quality to Protect Human Health and the Environment

The Delta Reform Act directs the Council to improve water quality to protect human health and the environment and recognizes that water quality is critical to a reliable water supply. Chapters 3, 4 and 5 deal individually with specific protections for water

supply, ecosystem protection, and the Delta as a place, respectively. Chapter 6 specifically addresses and discusses the issue of water quality as it relates to these three chapters.

Water Quality is defined by the intended beneficial uses of that water. Protecting all beneficial uses, including water supply and ecosystem restoration, results in competing needs and trade-offs. Historically, salinity has been the primary water quality concern in the Delta, and controlling salinity level has focused on the timing of freshwater flows. Other state agencies, particularly the State and Regional Water Quality Control boards have broad authority to protect and regulate water quality, so instead the final staff draft recommends Delta-specific actions.

Key Changes Include – Chapter 6 has been changed to focus the discussion of water quality on protection of beneficial uses. A discussion of disinfection by-products was added, and discussions of scientific studies were condensed and streamlined. Language was added to clarify the Water Boards' role and process in protecting water quality, and recommendations were added or changed regarding specific Water Board actions. An example of adaptive management to address conditions of low dissolved oxygen was added.

Inclusion of a water quality policy was proposed to the Council in April. The Council, however, decided to not include a water quality policy, but instead added three new recommendations to Delta water quality.

Chapter 7 – Reduce Risk to People, Property, and State Interests in the Delta

This chapter provides a set of policies designed to address the reduction of Delta flood risks by prioritizing State investments in Delta levees to address those most critically in need, setting interim standards for State investment, protecting critical floodways and floodplains from encroachments, and improving flood protection standards for new residential development. Recommendations are also provided to consider additional Delta bypasses, improve emergency preparedness and response strategies, establish a regional flood management assessment district, promote methods to reduce State liability, and implement methods to better integrate ecosystem function within levee design.

Key Changes Include – This draft makes improvements from the previous draft primarily by including further detail concerning the method for determining State levee investment priorities, as well as defining interim priorities. Importantly, the Council will take a leadership role in the development of these priorities. Additional material concerning subsidence reduction and reversal have been developed, but are now located within the chapter addressing the Delta as an evolving place. Proposed improvements to the level of residential flood protection have been addressed by revising the land use policy language and removing Table 7-1. Improved integration of flood protection issues and ecosystem values occurred in the narrative and policies and recommendations. These changes reflect themes addressing comments received from stakeholders following the fifth draft.

Chapter 8 – Funding Principles to Support the Coequal Goals

This chapter sets the stage for a comprehensive finance plan in order to fund implementation of the Delta Plan. Guiding principles are set forth to shape the development of a Delta Plan finance plan. User fees will be a key funding component and will be based on the principles of beneficiaries pay and stressors pay. In addition, traditional funding mechanisms, including public funds, will also be assessed as to their prospects for meeting long-term funding needs. Near-term and annual funding requirements for specified projects and programs, including expenditures for water reliability and ecosystem protection, and are described.

Key Changes Include – The fifth staff draft included 13 recommendations on finance. Most of these recommendations have been moved to the appropriate chapter where the program/policy is discussed in greater detail. In addition, an expanded discussion and background on financing water infrastructure is now included in this chapter.

Next Steps

At this meeting staff will brief the Council on the draft and what has changed between the fifth draft released last fall and now. In addition, the Council will meet June 14-15 to review this draft in greater detail.

Staff expect to receive final direction from the Council on any Plan changes no later than June 29. That final direction — which will be informed by stakeholder comments, board comments, and related staff proposed edits discussed during May and June meetings -- will be used by staff to generate, after the June 29 meeting, a final draft Delta Plan which will be the subject of CEQA and Administrative Procedures Act/Office of Administrative Law (APA/OAL) processes.

Regarding CEQA coverage for this revised draft Delta Plan, it is staff's intention to prepare and circulate for public review and comment an additional EIR volume that will supplement the already-circulated Draft Program EIR. The additional volume will specifically address, as a separate and new alternative, the policies and recommendations in the final draft Delta Plan generated based on Council direction in June. The additional volume will also include updates to the already-circulated Draft Program EIR, such as updating the comparison of alternatives to include comparison with the final Council draft Delta Plan to be issued in July. Other updates may be added to reflect intervening events since the Draft Program EIR was published last year.

Staff believes that circulating an additional volume is appropriate given the extent of the text changes and reorganization of this revised draft Delta Plan (as compared to the 5th staff draft, which was the subject of the already-circulated Draft Program EIR) and given the Council's strong track record for transparency and stakeholder involvement. Staff will publish the additional volume this summer for a 45-day public review and comment period. Additional opportunities for public comment will occur during the APA/OAL process and upcoming Council meetings.

List of Attachments

Attachment 1: Final Staff Draft Delta Plan

Attachment 2: List of Policies and Recommendations in the Final Staff Draft Delta Plan

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