



May 12, 2010

Phil Isenberg, Chairman
Delta Stewardship Council
650 Capital Mall
Sacramento, CA 95814

Re: **Recommendations for the Interim Plan**

Dear Chairman Isenberg:

I am writing on behalf of NRDC's more than 200,000 California members and activists to offer our recommendations for inclusion in the Council's Interim Plan. These recommendations include actions where immediate action is required, where broad support exists for the proposed action, and where early action could help the Council in the preparation of the Delta Plan. Specifically, we offer the following recommendations for inclusion in the Interim Plan:

Prepare a Management Plan for Sherman Island: In 2007, NRDC, MWD and other stakeholders agreed (see the attached memo, dated July 16, 2007) that DWR should undertake the preparation of a management plan for Sherman Island as an interim action. This island is owned by DWR and was identified by the PPIC as the most vulnerable island in the Delta. If Sherman Island were to flood under current circumstances, it would result in the loss of power lines and Highway 160, and could threaten the stability of adjacent islands. Such an event would have unforeseen environmental consequences, impacts on adjacent islands, human safety impacts, as well as significant impacts on the CVP and SWP systems. Whatever long-term management direction the Council ultimately selects in the Delta Plan, it is likely that for several decades at minimum, the state will need to reduce the vulnerability of Sherman Island. Thus, a management plan for Sherman Island would not pre-determine any long-term decisions regarding the Delta.

Fortunately, there are many options available to assist in efforts to increase the stability of Sherman Island, including: the re-use of dredged material from the Delta and the Bay; wetlands restoration with carbon sequestration benefits; cross-diking to segment the island into more manageable and less vulnerable cells; limited tidal restoration in a portion of the island; strengthened and setback levees; and raising the elevation of Highway 160. Such a management plan could stop and reverse ongoing subsidence, reduce the risk of a large-scale failure, maximize the reuse of dredged material, reduce the impacts of a flood, reduce the cost of rehabilitation, sequester carbon, and create habitat benefits. Given the key role this island plays in protecting the Delta, this effort should begin immediately, rather than awaiting the completion of the Delta Plan.

Identify Levees Essential to the SWP and CVP: Within a year, DWR should identify those Delta levees that are essential to the current operations of the SWP and CVP pumps in the South Delta. The potential water supply consequences of a large-scale failure of Delta islands are well established. In the near and mid-term, there is broad agreement that the projects will continue to divert from the South Delta. Even in the long-term, the BDCP process has identified dual conveyance as the preferred approach. Dual conveyance would continue to rely on the stability of Delta levees. Therefore, increasing the stability of crucial Delta islands will provide water supply reliability benefits for many decades to come. However, neither DWR nor the Delta Risk Management Study has identified which Delta levees are essential to the continued operation of the Delta pumps. The identification of these key levees will assist the Council in the preparation of the Delta Plan. It will also assist the state in short-term emergency management preparation efforts. This process should begin immediately.

Restore Tidal Habitat in Suisun Marsh: The draft outline of the Interim Plan included in the April 22-23 meeting packet includes interim restoration actions such as Dutch Slough and Meins landing. We recommend that restoration projects in Suisun Marsh be added to this list. There is broad recognition of the potential benefits of the restoration of tidal habitat in Suisun Marsh. This is another interim action on which NRDC, MWD and others reached agreement in 2007. There has been an ongoing discussion with the Suisun Resource Conservation District about the opportunity for restoration in this area. Given the status of Delta fisheries, some of which would benefit from additional tidal marsh restoration, we urge the Council to include this opportunity in the Interim Plan. Such restoration is consistent with the direction of the BDCP, as well as the Delta Regional Ecosystem Restoration Implementation Plan (e.g. DRERIP Goal 2, Objective 3).

Integrating Science into Key Agency Activities: In creating the Council, the legislature required the creation of the Delta Science Program as an early action (Section 85080). The same chapter requires the creation of the interim plan. In light of this clear legislative intent to establish a strong science program immediately, the Interim Plan should include some key early actions from the Science Program. This same chapter also requires the Department of Fish and Game to develop and recommend flow criteria and quantifiable biological objectives, and requires the State Water Board to prepare flow criteria. The legislature also created several new requirements for the BDCP process. All three of these important efforts may be completed or may reach critical points prior to the completion of the Delta Plan. In addition, all of these efforts have important implications for a final Delta Plan. Science plays a central role in each of these efforts. Therefore, we recommend that the Council direct its existing Science Program to undertake immediately the following tasks as key elements of the Interim Plan.

- Work closely with the Department of Fish and Game and the State Water Resources Control Board to develop recommended quantifiable biological objectives and goals to assist these agencies and the BDCP in the completion of tasks that the legislature has assigned to them.
- Complete an independent scientific review of agency efforts to implement the “logic chain.” In short, the logic chain is a strategy to ensure that quantifiable biological objectives (also referred to as “outcomes”) are used as the foundation of BDCP efforts to

design conservation measures, evaluate potential impacts and design an adaptive management program.

Implementing the Biological Opinions: The draft outline includes the following as an interim action: “New operating criteria for Biological Opinions.” While we urge the Council to become an active participant and, indeed, a leader in developing a long-term restoration plan for the Delta, the Council should not and cannot modify the existing OCAP Biological Opinions (BOs) in the short term. Those BOs were developed pursuant to the authority of the federal Endangered Species Act, an Act which the Council is neither authorized to administer nor modify. Some water users and the Department of Water Resources have strongly opposed the existing BOs. However, the BOs have undergone numerous independent peer reviews, all of which have generally validated the scientific basis of their requirements. Most recently, the March 19 National Research Council interim report found that the protections in the BOs are “scientifically justified” and have a “sound conceptual basis.” The report also stated that “(i)mplementation of this action needs to be accompanied by careful monitoring, adaptive management and additional analysis”. (NAS Interim Report, p. 4) The existing BO’s provide extensive mechanisms to provide this monitoring, adaptive management and analysis. (It is important to note that the NRC Interim Report analyzed the BOs themselves, not the implementation of the BO’s.) For example, the Delta Smelt Working Group receives monitoring reports and makes recommendations regarding, Old and Middle River flows. Fish and Wildlife Service implementation of this RPA has required initial protections at levels that required the least possible water, only increasing protections in response to “on the ground” developments as reported through extensive monitoring programs. Thus, the existing BOs provide the adaptive management program that the NRC believes to be necessary to incorporate the best available science.

The NRC review and ongoing agency scientific review (per the May 3 letters from DOI and Commerce) will continue to develop recommendations for the implementation of these BOs. Clearly, the preparation of new long-term BOs is outside of the scope of the Interim Plan. We recommend that this interim action be eliminated or modified to call for the implementation of the adaptive management programs in the existing BO’s, to address the recommendations of the NRC. We do not believe that the case has been made to reinitiate consultation. Such an effort would be particularly challenging for the agencies from a staffing perspective, given the demands of defending the current BOs as well as participating in the BDCP process.

Thank you in advance for considering our recommendations.

Sincerely,

Barry Nelson
Senior Policy Analyst