



INFORMATION ITEM

Delta Levee Investments Report

Summary: Delta Stewardship Council (Council) staff will provide an update on a Memorandum of Understanding (MOU) between the Council, the Department of Water Resources (DWR), and the Central Valley Flood Protection Board (Flood Board) to coordinate the implementation of the Delta Levees Investment Strategy (DLIS). Staff will also report on activities of the workgroup formed to evaluate proposed levee projects and co-manage the DLIS Decision Support Tool, and provide an update regarding the ongoing rulemaking process for Delta Plan Policy **RR P1** related to the DLIS.

The 2018 amendment to Policy RR P1 identifies that DWR will report to the Council regarding Delta levee investments. DWR executive staff will present a report to the Council describing such recent investments.

Background and Delta Reform Act Authority

Delta and Suisun Marsh Levee Functions

The Sacramento-San Joaquin Delta (Delta) is home to more than 500,000 people and comprises approximately 1,300 square miles of low-lying, flood-prone lands bound by 1,100 miles of levees. The Suisun Marsh, located immediately downstream from the Delta and north of Grizzly Bay, includes about 230 miles of levees that reduce flood risk and help manage flows for wetlands. About 80 miles of these levees protect Delta water quality and terrestrial and aquatic habitat of statewide importance.

The Delta is comprised of two levee categories: project levees and nonproject levees. Project levees are part of the State Plan of Flood Control and are identified by the Flood Board. Roughly one-third of the Delta's levees, or about 380 miles, are project levees. Non-project levees are constructed and maintained by local reclamation districts, and comprise the remaining two-thirds of the Delta's levees.

Levee failure can cause catastrophic flooding and can potentially cause injury or loss of life, disrupt water supplies, and possibly damage property, infrastructure, and environmental resources of importance to the entire State. The State has numerous interests in the Delta that are protected by levees, including 1) risk to public safety, property, and infrastructure; 2) water supply reliability; 3) the Delta ecosystem; and 4) the unique attributes of the Delta as an evolving place. Prioritizing State investments to protect these interests is a key component of the Council's approach to furthering the coequal goals.

Review of Delta Reform Act Requirements and Authority

Pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009 ("Delta Reform Act"), set forth in Water Code section 85000 et seq., the Council has developed an enforceable, comprehensive, long-term management plan for the Delta (Water Code section 85300). The Delta Reform Act established as State policy the coequal goals for

the Delta of providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem 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). To implement the Delta Plan and further the coequal goals, inherent subgoals, and policy objectives of the Delta Reform Act, the Delta Plan contains regulatory policies, codified in California Code of Regulations, Sections 5001 through 5016.

The Delta Reform Act also requires the Delta Plan to attempt to reduce risks to people, property, and State interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments (Water Code section 85305(a)); and to recommend priorities for State investment in levee operation, maintenance, and improvements in the Delta, including both project levees, and non-project levees (Water Code section 85306).

Roles and Responsibilities

In addition to the Council's role described above, DWR and the Flood Board also play critical roles with regards to Delta levees.

DWR. DWR guides many flood management activities across the State.

Its broad view, engineering and environmental science skills, multiple programs, and size contribute to its role as the leading State flood management agency.

For project levees, DWR develops and recommends the Central Valley Flood Protection Plan to the Flood Board. Pursuant to State law, on the Sacramento River DWR maintains at its expense many bypasses and a few levees of the State Plan of Flood Control, including in the Delta the west levee of the Yolo Bypass above Putah Creek and Putah Creek's levees (Water Code section 8361).

For non-project levees, DWR administers two key programs. The first is the Delta Levee Maintenance Subvention Program, which cost shares local agencies' maintenance of Delta levees (Water Code sections 12980 through 12995). The other is the Delta Levees Special Flood Control Projects Program which funds improvements to levees and levee-related wildlife and fish habitats that have discrete and identifiable public benefits, including the protection of public highways and roads, utility lines and conduits, and other public facilities, and the protection of urbanized areas, water quality, recreation, navigation, fish and wildlife habitats, and other public benefits (Water Code sections 12300-12314).

In the past, DWR has prepared plans for the Delta levee system (DWR 1975; DWR 1982; DWR.1992; DWR.2011). It recommends criteria for maintenance and improvement of nonproject levees to the Flood Board (Water Code section 12984), and inspects completed projects funded through the Delta Levee Maintenance Subventions Program and the Delta Levees Special Flood Control Projects Program, reporting its findings to the Flood Board (Water Code section 12988).

Flood Board. The Flood Board has a diverse set of duties enabling it to oversee planning and improvement of both the Delta's project and its non-project levees. For project levees, the Flood Board is responsible for approving and overseeing the Central Valley Flood Protection Plan, which in cooperation with the USACE project

authorizations, is the State's flood management plan for lands along the Sacramento and San Joaquin rivers and their tributaries. Through agreements with USACE, the Flood Board fulfills the State's cost-sharing responsibilities to the federal government for federally-authorized improvements to facilities of the State Plan of Flood Control for these rivers and their tributaries, providing lands, easements, rights-of-way, relocations, and cash payments for USACE-constructed or cost-shared flood control projects. When a project is completed and assurance agreements are secured from local maintaining agencies, the Flood Board accepts responsibility for the project and transfers it to the local agency to operate and maintain. The Flood Board also regulates encroachments within this State-federal system and some other Board designated floodways.

For non-project levees, the Flood Board also has authorities. For example, they approve the criteria for maintenance and improvement of non-project levees recommended by DWR (Water Code section 12984).

Finally, for both project and non-project levees, the Flood Board approves costs allocated or reimbursed through the DWR's Delta Levee Maintenance Subvention Program (Water Code section 12986(a)(6)) and local plans for maintenance and improvement of project and non-project levees eligible for reimbursement through the subventions program (Water Code section 12897). Local agencies are required to enter into agreements with the Flood Board to perform the maintenance and improvement work specified in these plans. If sufficient State funds for the subventions program are unavailable, it is the responsibility of the Flood Board to apportion them among the levees or levee segments that are more critical and beneficial, in response to recommendations from DWR (Water Code section 12897(f)).

Delta Levees Investment Strategy

In response, the Council developed an interim set of levee investment priorities (Policy **RR P1**) as part of the initial 2013 Delta Plan. The Plan also included a recommendation (Recommendation **RR R4**) that called for updating the interim priorities. The Council began formulating a comprehensive analysis of State interests and risks in the Delta in 2014, including developing a white paper, *State Investment in Delta Levees: Key Issues for Updating Priorities*. Intended as a primer on Delta levees, this document, prepared at the Council's direction, served as a foundational document for the development of the DLIS. Copies of this report are available upon request at archives@deltacouncil.ca.gov.

After this document was released, the Council formulated the DLIS through a public process occurring between 2014 and 2017. Using a risk analysis methodology, the DLIS establishes a three-tiered priority list – Very-High Priority, High Priority, and Other Priority – for State investments in levee improvements for Delta islands and tracts. The priorities generally address the relationship between the flood risk of each Delta island or tract, and the number of State interests that island's or tract's assets encompass. The Council adopted revisions to Delta Plan Policy **RR P1** to incorporate the DLIS at its April 26, 2018 meeting.

Staff initiated rulemaking under the California Administrative Procedures Act to amend California Code of Regulations Section 5001 and Section 5012 to codify the DLIS by filing a Notice of Proposed Rulemaking, published in the California Regulatory Notice Register on July 5, 2019. The Council held a noticed public hearing on August 22, 2019,

where it received public comments regarding the proposed regulatory amendments. Council staff are currently evaluating comments to determine whether any modifications should be proposed, preparing draft responses to those comments to be considered by the Council prior to considering approval of the proposed regulatory amendments.

State Investments in Delta Levees MOU

Water Code section 85306 directs the Council, in consultation with the Flood Board, to recommend priorities for State investments in Delta levees. To carry out this charge, and in consideration of the future implementation of the DLIS, the Council, DWR, and the Flood Board (Partner Agencies) signed an MOU in September 2017 recognizing the shared interests and overlapping jurisdictions of the Partner Agencies on Delta levee investments. The MOU outlines a working relationship between the Partner Agencies to administer current plans and policies regarding State investments in levee operation, maintenance and improvements, including but not limited to the proposed DLIS. To accomplish this, a workgroup was established comprised of subject matter experts and policy advisors from each of the Partner Agencies. The workgroup, which has been meeting biweekly since July 2018, has focused on the following three near-term priorities.

1) Consideration of DLIS priorities when evaluating proposed projects

As funding permits, DWR issues a proposal solicitation package (PSP) for its Delta Special Projects Program. Recent solicitations have focused on multi-benefit projects that simultaneously improve the environment, flood management, and water supply reliability. Proposed projects are evaluated based on their responsiveness to the PSP's stated objectives.

As DWR develops solicitations, consideration of the Council's DLIS prioritization is essential. To that end, the current draft Project Solicitation Package (PSP) awards funding to Delta levee projects based on applications that are scored using a point system. The PSP allocates up to 50 points (out of 500 total points available) to a project based on the ranking of the island or tract the project is protecting in the DLIS prioritization (i.e., Very-High Priority islands or tracts, High Priority islands or tracts, Other Priority islands or tracts). Projects protecting higher priority islands or tracts are awarded more of the available points.

2) Co-management of the DLIS Decision Support Tool

The DLIS is informed by a computerized Decision Support Tool that enables the Council and stakeholders to review and update data and analysis that form the basis of Delta levee risk evaluation. The Decision Support Tool summarizes information about baseline and future risks, aggregating and displaying risks to State interests.

Recognizing the value of such a mechanism, the workgroup has developed a consensus-driven approach to co-manage, maintain, and refine the Decision Support Tool, so it can provide Agency Partners with data and analyses that can support the work of each agency. To that end, the workgroup has developed a draft Project Management Plan that will guide the next phase of Decision Support Tool management. The draft Project Management Plan is currently being reviewed by the Partner Agencies.

3) Reporting

A primary objective of the DLIS is to improve communication and transparency about how the State funds levee improvements in the Delta. The agencies that comprise the workgroup will continue to work collaboratively to ensure that such decisions are communicated in a public forum. The 2018 Delta Plan Amendments to Policy RR P1 identify that DWR will report to the Council regarding Delta levee investments.

Today's Meeting

At today's meeting, Council staff will summarize key policy considerations regarding Delta levee, and provide an update to the Council regarding workgroup activities related to evaluation of proposed levee projects and co-management of the DLIS Decision Support Tool. Council staff will also provide an update regarding the ongoing rulemaking process for Delta Plan Policy **RR P1** related to the DLIS.

Following the staff presentation, DWR Deputy Director Kris Tjernell and Advisor/Attorney IV Laura Hollender will present a report to the Council describing recent levee investment activity, focusing on State funds awarded, local or federal matching funds, and alignment of funding with the DLIS priorities.

Fiscal Information

Not applicable.

List of Attachments

Not applicable.

Contact

Jeff Henderson, AICP
Deputy Executive Officer
Phone: (916) 445-0258

Ryan Stanbra
Legislative and Policy Advisor
Phone: (916) 445-0641

Erin Mullin, P.E.
Senior Water Resources Engineer
Phone: (916) 445-5459