



DRAFT

**SUMMARY: MAY 20-21, 2021
DELTA STEWARDSHIP COUNCIL MEETING**

For review and adoption by the Council at the June 24, 2021 meeting.

In accordance with the Governor's Executive Order N-25-20 issued on March 12, 2020, and the Governor's Executive Order N-29-20 issued on March 17, 2020, the meeting's proceedings were conducted entirely remotely.

All meeting materials, presentations, and comment letters are available at <https://deltacouncil.ca.gov/council-meetings>.

MEETING SUMMARY

1. WELCOME AND INTRODUCTIONS

Chair Susan Tatayon called the meeting to order at 9:00 AM, May 20, 2021.

2. ROLL CALL – ESTABLISH A QUORUM (WATER CODE §85210.5)

Roll call was taken, and a quorum was established. The following Councilmembers were present: Frank Damrell, Virginia Madueño, Maria Mehranian, Don Nottoli, Christy Smith, Susan Tatayon, and Daniel Zingale.

3. PUBLIC COMMENT

There was no public comment.

4. PUBLIC HEARING REGARDING APPEALS FOR THE CERTIFICATION OF CONSISTENCY FOR THE LOOKOUT SLOUGH TIDAL HABITAT RESTORATION AND FLOOD IMPROVEMENT PROJECT (INFORMATION ITEM)

The Council held a public hearing regarding the appeal of the certification of consistency submitted on February 22, 2021, by the Department of Water Resources (DWR), Certification number C20215. A link to the hearing notice can be found here:

https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=ba3c59bf-e359-49f7-b866-60fa781325d0 . The hearing commenced at 9:03 am.

Chair Tatayon and Councilmembers Frank Damrell, Virginia Madueño, Maria Mehranian, Don Nottoli, Christy Smith, and Daniel Zingale were present for the hearing.

The Council's legal advisor Vera Bezdicek provided details on the ex parte communication restriction for the Lookout Slough Project certification of consistency appeals process. Councilmembers and staff were reminded that they cannot and should not communicate about or discuss the Lookout Slough Project or the Council's appeal proceeding with any person outside of the Council. The only exception is communications regarding the administrative or procedural status of the proceedings. The Council has established an email address to receive those types of communications: LookoutSloughCert@deltacouncil.ca.gov. The restriction is a requirement of California's Administrative Procedure Act and the Council's Appeals Procedures.

The order of the presentations went as follows:

- i. Opening of hearing and explanation of the process by the chair.*
- ii. Opening presentation by the Delta Stewardship Council*
- iii. Opening presentation Department of Water Resources (DWR)*
 - *Rachel Taylor, Charlotte Biggs, Heather Green, Kyle Bickler, Matt Brennan, John Baas, Nathan Bello, John Pritchard, Stephanie Freed, and Emily Cummings.*
- iv. Opening presentation Delta Protection Commission*
 - *Erik Vink*
- v. Opening presentation Liberty Island Access*
 - *Taylor Dahlke*
- vi. Opening presentation Solano County Water Agency*
 - *Jeanne Zolezzi, Roland Sanford, Alex Ribidoux, Chris Lee, and Thomas Pate*
- vii. Opening presentation Reclamation Districts 2060 and 2068*
 - *Kathryn L. Oehlschlager, Bryan Busch, Jack Kuechler, and Ric Reinhardt*
- viii. Opening presentation Central Delta Water Agency*
 - *Osha Meserve and Dante Nomellini Sr.*
- ix. Closing presentation DWR*
- x. Closing presentation Delta Protection Commission*
- xi. Closing presentation Liberty Island Access*
- xii. Closing presentation Solano County Water Agency*
- xiii. Closing presentation Reclamation Districts 2060 and 2068*

xiv. Closing presentation Central Delta Water Agency

Councilmembers and Council staff asked questions of the parties after each presentation.

The complete transcript of the first day of the hearing proceedings, along with all supporting documents, can be found here:

https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=ba3c59bf-e359-49f7-b866-60fa781325d0

At 4:15 PM, after the closing presentation by the Central Delta Water Agency, Chair Tatayon called for the hearing to be in recess and to resume the proceedings at 9:00 AM the next day (May 21, 2021).

The item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-20> minute 02:30.

Day 2
May 21, 2021

4. PUBLIC HEARING REGARDING APPEALS FOR THE CERTIFICATION OF CONSISTENCY FOR THE LOOKOUT SLOUGH TIDAL HABITAT RESTORATION AND FLOOD IMPROVEMENT PROJECT (INFORMATION ITEM)

Chair Susan Tatayon called the meeting to order at 9:02 AM, May 21, 2021. Roll call was taken, and a quorum was established. The following Councilmembers were present: Frank Damrell, Virginia Madueño, Maria Mehranian, Don Nottoli, Christy Smith, Susan Tatayon, and Daniel Zingale.

Public comment:

Public comment was received from the following individuals: Andrew Goodman, Marc Hanson, Devin O’Dea, John McManus, David Urban, Tim DeGraff, Adam Davis, Ray Costa, Mark Cederborg, Dan Palmer, Daniel Leue, Stephanie Freed, Nicole Hart, Glen Williams, Jay Punia, Johnathan Kors, Braiden Chadwick, John DeGeorge, John Pritchard, Jacob Katz, Julie Morrow, Bruce Jensen, Misty Kaltreider, Thomas Pate, Alex Rabidoux, and Peter Smith.

Councilmembers and Council staff asked questions of the parties during the public comment and throughout the remainder of the hearing.

The complete transcript of the second day of the hearing proceedings, along with all supporting documents, can be found here:

https://coveredactions.deltacouncil.ca.gov/profile_summary.aspx?c=ba3c59bf-e359-49f7-b866-60fa781325d0

Upon conclusion of the hearing, Chair Tatayon directed Council staff to prepare draft findings regarding the appeals based on the official record and comments received regarding the matter. The next hearing is tentatively scheduled for July 15-16, 2021. A separate notice will be issued, and the Council is still under ex parte restrictions. The hearing concluded at 11:33 AM.

The item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 01:25

11. DELTA INDEPENDENT SCIENCE BOARD UPDATE

Chair Tatayon announced that, due to schedule conflicts, the Council would take up Agenda Item #10 first, then proceed with business per the rest of the agenda.

Delta Independent Science Board (Delta ISB) Chair Dr. Stephen Brandt and Past-chair Jay Lund provided an update on the activities of the Delta ISB, including the findings and recommendations from its most recent review: "The Science of Non-native Species in a Dynamic Delta." Highlighted in this report are seven specific recommendations for the Delta.

The Councilmembers, Dr. Brandt, and Dr. Lund discussed how the research can be applied on a national or global scale, if there were other examples of how non-native species are being handled elsewhere, and what species are the greatest threats to the Delta ecosystem. Councilmembers and staff also discussed the legislative and administrative aspects that are affecting the status of the Delta ISB's funding.

Councilmember Damrell highlighted that the Delta ISB is essential to the Council's ability to develop informed decisions and hopes for a resolution to the funding issues.

Public Comment:

Dr. David Fries, San Joaquin Audubon Society, requested that a letter be read into the record. Dr. Fries voiced concern around the current funding structure for the Delta ISB.

Deirdre Des Jardins, California Water Research, voiced her concern that Delta ISB contracts were returned unsigned on June 30, 2020. Des Jardins also voiced concern that there were staff members unpaid for several months last year.

Osha Meserve echoed the concern that the Delta ISB isn't getting the appropriate funding to serve the Council.

Councilmember Nottoli commented that the Council should be an active part of the solution for the funding issue. Executive Director Jessica Pearson noted that the Council doesn't have legal discretion to employ the Delta ISB as contractors. Pearson also clarified that the budget for the Delta ISB has not been cut. Council staff is providing technical guidance to the legislature and hopes to find a path forward soon.

The item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 2:33:45.

5. CONSENT CALENDAR (ACTION ITEM)

Motion: Offered by Damrell, second by Mehranian – Approve the Consent Calendar.

Vote: 6/0 - The vote was unanimous. The motion was adopted.

The motion and vote are viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 3:32:45

6. CHAIR'S REPORT (INFORMATION ITEM)

Chair Tatayon did not give a Chair's report in the interest of time.

7. PUBLIC COMMENT

There was no public comment.

8. EXECUTIVE OFFICER'S REPORT (INFORMATION ITEM)

Pearson reminded the public that the Council's physical office is closed. However, Council staff is working remotely to support physical distancing efforts. The public should contact hello@deltacouncil.ca.gov to be directed to the appropriate staff person for assistance. Additionally, the Council has changed its public meeting format to be fully remote in the interest of public health safety standards.

Pearson noted that on May 3, the Council hosted a virtual workshop for the Delta Adapts adaptation strategy in conjunction with community partners in Stockton. The workshop convened agency staff and community members to discuss local climate adaptation priorities that will inform the Delta Adapts effort. The workshop sought to frame adaptation through discussion of regional climate impacts and to hear from local flood agencies and community groups.

Pearson highlighted there were two significant announcements with implications for the Delta from the Governor in the last few weeks. On May 10, Governor Newsom expanded his drought emergency declaration to 41 counties, including the Delta and Delta region. Beyond declaring a drought in those counties, the Governor's proclamation also directs the State Water Resources Control Board to consider modifying the requirements for reservoir releases that supply the Delta, as well as diversion limitations. The order also directs for the review of water rights transfers to be expedited. In addition, on May 14, the Governor released his May Revise budget, which includes proposed investments in water infrastructure and supply. In total, the Governor proposed \$5.1 billion for immediate drought response and water resilience investments spread out over four years.

Pearson reported on two covered actions certifications. Reclamation District 3 submitted a certification of consistency on April 26 for the Grand Island Levee Seepage Cutoff Wall Project. The project's public review period closes next Wednesday, May 26. In addition, the City of Fairfield submitted a certification of consistency on May 3 for the Pacific Flyway Center Project. The project's public review period closes on June 2.

8a. Legal Update (Information Item)

There was no Legal Update.

8b. Legislative Update (Action Item)

The Legislative Update was provided to the Council in writing.

The Executive Officer's Report is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 3:34:08.

9. LEAD SCIENTIST'S REPORT (INFORMATION ITEM)

Delta Lead Scientist Dr. Laurel Larsen gave an abbreviated version of her report in the interest of time. Dr. Larsen highlighted the upcoming Science Actions Workshop, July 13-14, 2021, from 9 AM-12 PM each day. The Delta Science Program will virtually host the Science Actions Workshop as part of the 2022-2026 update to the Science Action Agenda (SAA).

Dr. Larsen discussed a study by Strong et al. (2021). The study evaluates the effect that wastewater effluent from the Sacramento Regional Wastewater Treatment Plant (Regional San) has on the base of the food web, which is critical to sustaining native fish populations in the Delta.

Councilmembers discussed that the upgrades to Regional San came from a renewal of their permit. Councilmember Notolli extended an offer to tour the Regional San. The By The Numbers report was provided to the Council in writing.

Public Comment

Des Jardins commented that the Coalition for a Sustainable Delta promoted ammonia as the cause of the pelagic organism decline. The 2010 Interagency Ecological Program Pelagic Organism Decline Synthesis Report conversely shows that the main cause for pelagic decline was flow. The upgrade to Regional San was mandated by the Central Valley Water Quality Control Board with the renewal of their permit but Jardins is concerned that these updates won't improve flow. She also notes that a scientist from the Delta ISB could have assisted in making improvement decisions for Regional San that could have better assessed the conflicting scientific opinions.

The agenda item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 3:39:15.

10. DELTA LEVEES INVESTMENT STRATEGY UPDATE (INFORMATION ITEM)

Council staff provided an informational update on the Delta Levee Investment Strategy (DLIS), including an updated prioritization table and modified preliminary draft regulatory language for Delta Plan Policy RR P1, which included stakeholder input that has been ongoing since late 2019. Senior Engineer Erin Mullin gave a presentation on the background of Delta levees and the rulemaking process.

Deputy Executive Officer for Planning and Performance Jeff Henderson gave a presentation on the key data changes including updates to the hydrologic data using new information from Delta Adapts, the LiDAR data, and the fragility curves. Henderson explained how these updates caused changes to island and tract priorities.

Chief Deputy Executive Officer Ryan Stanbra provided an overview on the regulatory language, which included Councilmember, stakeholder, DWR, and public input.

Henderson gave a closing presentation on the preparation of a modified preliminary draft regulation in order to initiate rulemaking and on the California Environmental Quality Act process.

Councilmembers and staff discussed having flexibility in the language to accommodate the fluctuating nature of the issue and the definition of “levee rehabilitation.”

Public Comment

Dante Nomollini, manager for the Central Delta Water Agency, notes that there is some urgency around levees to prevent salinity intrusion in the event of a natural disaster. Nomollini noted that he would like to collaborate with the Council to refine some of the definitions in the DLIS. Nomollini also noted that it would be beneficial to use more flexible language in the regulation.

Des Jardins noted that the levee system is vulnerable to sea-level rise and is concerned that Clarksburg is being defined under the “Other” category in DLIS as it has a school in the area.

Meserve requested support and guidance from the Council around the DLIS policies. Current law doesn’t list levees priorities as needing to be in regulation and including the list in the process is very inefficient as the areas and priorities can change. She also noted that the current levee system doesn’t protect the freshwater pathway.

Gilbert Cosio, MBK Engineers, expressed concerns about the definitions and risk analysis in DLIS. Cosio noted the importance of looking at all the islands as a connected whole.

The agenda item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 3:53:34

12. PUBLIC COMMENT (INFORMATION ITEM)

Des Jardins highlights the importance of the Council’s work and her appreciation for their time on the many issues before them.

The agenda item is viewable on the linked agenda at <https://cal-span.org/unipage/?site=cal-span&owner=DSC&date=2021-05-21> minute 4:52:09.

13. PREPARATION FOR NEXT COUNCIL MEETING

The next Council meeting is on June 24, 2021, via teleconference.

The meeting adjourned at 1:55 PM.

All meeting materials, presentations, and comment letters are available at <https://deltacouncil.ca.gov/council-meetings>.