



August 17, 2011

Attention: Imported Water Committee

Bay-Delta activities update. (Information)

Purpose

This report describes processes and dialogue occurring in the Delta as they address the “Delta fix” and, to the extent possible, how these processes relate to each other, including a timeline of estimated completion dates for some of these processes. This report augments last month’s board memo addressed to the Imported Water Committee, entitled “Update on Long-Term Bay Delta Actions.”

Discussion

A continuing conflict between ecosystem health and water deliveries through the Bay Delta has reached a critical juncture. The current infrastructure and operational approach for managing water resources in the Bay Delta is unsustainable. The economic impact of this predicament on California is severe and adds additional stress to urban and agricultural areas facing continued uncertainty in their future water supplies. As a result of these challenges, two major processes emerged that address the future of the Delta – the Bay Delta Conservation Plan (BDCP), which aims to improve water conveyance in the estuary, and the Delta Stewardship Council’s (Council) Delta Plan, which seeks to coordinate government actions in the region; both of these processes were discussed in detail in last month’s board memo entitled “Update on Long-Term Bay Delta Actions” (Figure 1 on page 2 illustrates the timing of the Delta Plan and BDCP process). While the Delta Plan and BDCP have been at the forefront when discussing the Delta, there are multiple planning and research activities under discussion. The challenge is how or if these competing objectives can all be satisfactorily managed and met (Figure 2 on page 3 illustrates how the various components relate to each other).

Bay Delta Conservation Plan. In 2008, the California Natural Resources Agency initiated preparation of the BDCP as a collaboration of state, federal, and local water agencies, state and federal fish and wildlife agencies, environmental organizations, agricultural organizations, and other entities. The BDCP is being developed as a multi-species habitat conservation plan and a natural communities conservation plan under the federal and state endangered species acts. By providing a plan that seeks to recover listed species, state and federal water management agencies will be able to obtain the permits necessary to build necessary infrastructure in the Delta. The BDCP implementation plan extends 50 years into the future. Actions described in the BDCP are broadly defined, intended to meet the biological goals and objectives over time, but are flexible enough to adapt to changes in the Delta.

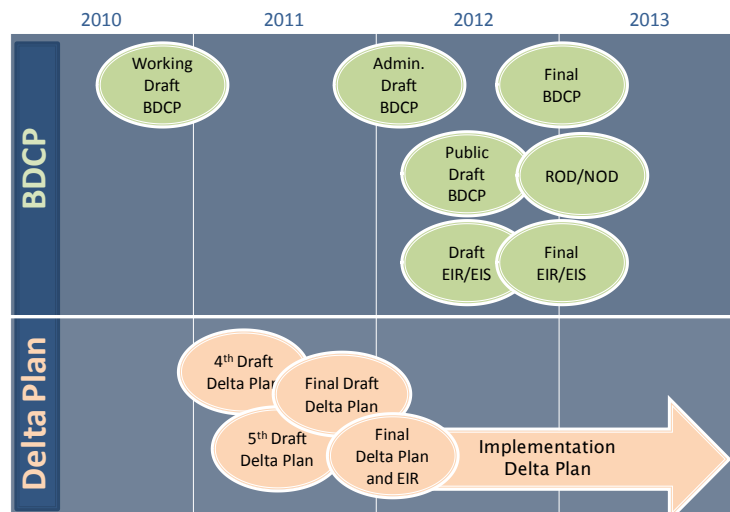
A working draft of the BDCP was released in November 2010. The working draft lacked the effects analysis that constitutes the heart of a conservation plan under the federal and state endangered species acts. As a result, the working draft was criticized as incomplete and disjointed by the Natural Research Council, a branch of the National Academy of Sciences. On August 11, the U.S. Department of the Interior, the U.S. Department of Commerce, and the

California Natural Resources Agency announced a schedule for completion of the effects analysis, as well as the combined Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) for the BDCP by June 2012.

Delta Habitat Conservation and Conveyance Program. As part of the evaluation of environmental impacts resulting from the BDCP’s goals, state and federal laws require the development of an EIR and an EIS, respectively. The Delta Habitat Conservation and Conveyance Program (DHCCP) was established in 2008 through a Memorandum of Agreement (MOA) among state, federal and water user agencies. The DHCCP was created to support the environmental analysis and documentation, preliminary engineering designs, geotechnical field studies, and other necessary feasibility information for Delta water conveyance and related habitat conservation measures for the BDCP, which also includes completion of a Habitat Conservation Plan (HCP) and a Natural Community Conservation Plan (NCCP). This month, signatories of the 2008 MOA, including Metropolitan Water District, returned to their boards to receive authority to execute an amendment, which merges the BDCP planning phase and the development of the DHCCP environmental documentation and preliminary engineering design into a single set of agreements. The merged agreement also includes the decision-making processes, budget expenditures, cost sharing determinations, and schedule for the remainder of the BDCP and DHCCP planning phase.

Delta Stewardship Council’s Delta Plan. The Council emerged as a result of State legislation, Senate Bill X7-1, known as the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act). The Council is charged with developing a Delta Plan to achieve the “coequal goals of providing a more reliable water supply for California and protecting, restoring and enhancing

Figure 1 – Projected Delta Plan and BDCP Schedule



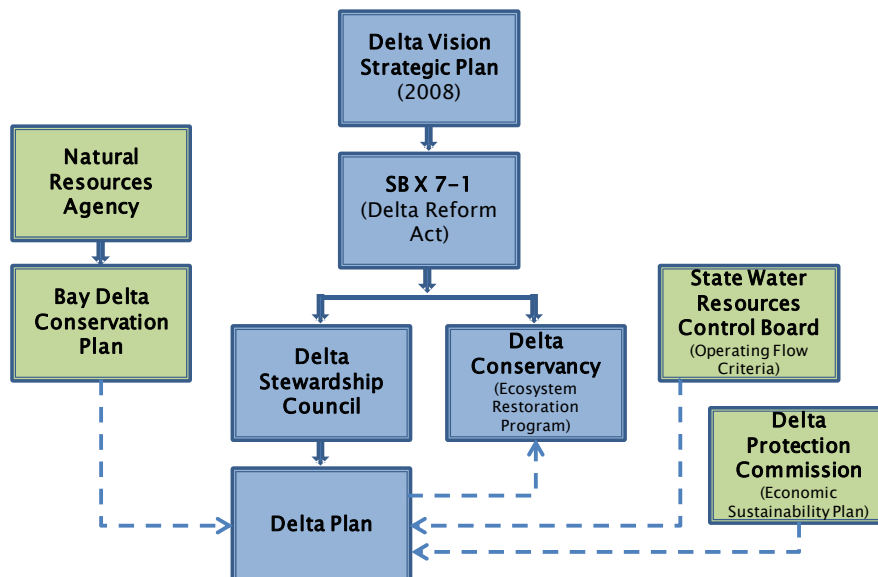
the (Sacramento-San Joaquin River) Delta ecosystem.” The Council also has indirect authority over the Delta region’s land use and water use. Once the Delta Plan is adopted, a public agency that commences work on a specified covered action that falls within the limits of the Delta Plan must certify to the Council for review that the action is consistent with the Delta Plan’s

provisions. The Council cannot directly act on the certification, but it serves as the appellate agency and may remand the certification back to the agency for further consideration.

Similarly, the Legislation statutorily designated the Council as a “responsible agency” regarding the EIR and EIS prepared under the DHCCP. If the BDCP meets the statutory criteria for establishing an HCP pursuant to the federal Endangered Species Act and an NCCP under the California Endangered Species Act, the Council must incorporate it into the Delta Plan. However, the Council may hear an appeal to the DFG’s decision to certify the BDCP as an NCCP. It may also advise on implementation of the BDCP. The Delta Reform Act also established the Council as lead in a coordinated approach of incorporating the State Water Resources Control Board, Sacramento-San Joaquin Delta Conservancy, and the Delta Protection Commission’s mandates into the Delta Plan.

The BDCP has provided some estimates on the potential cost to meet the co-equal goals of water reliability and ecosystem restoration, but there is not enough substantive engineering, economic and other financial information needed to develop an estimated total cost of the efforts. For example, the BDCP process has not yet produced cost estimates for environmental restoration and levee improvements beyond specific project mitigation requirements. Those costs are expected to be paid for, in part, through the water bond. In the 2009 comprehensive water legislation package, the Legislature placed an \$11.14 billion bond on the November 2012 ballot which, if passed, would provide some funds for activities specified in the Delta Plan. The Council will need to develop a finance plan as part of the Delta Plan. The affordability of the Delta fix – and the ability and willingness to pay for the fix – are of critical importance toward its success.

Figure 2 – Inter-relation of Bay Delta Processes



State Water Resources Control Board (State Water Board). As a result of the Delta Reform Act, the State Water Board, as the state’s principal water resources regulatory agency, is required to perform a public trust analysis of how much water is required to restore the Delta and to ensure that adequate flows move through the Delta. The Delta Reform Act set a firm nine-month deadline for the State Water Board to complete the public trust analysis, which was met – the

Delta Flow Criteria was completed on August 3, 2010 and submitted to the Council on August 25, 2010. The Water Authority and other water agencies raised concerns with the flow analysis because the flow criteria assumed increased flows are all that are needed to protect and restore fish species, and ignored stressors on fish such as temperature, invasive species, and discharges of chemicals. The flow criteria would require that a high percentage of the inflows to the Delta flow out to the sea, reducing exports to Southern California and the Central Valley and have severe effects on agricultural water users upstream of the Delta. When a preferred alternative for water supply conveyance is selected, the State Water Board has a separate responsibility to consider and approve any water project operational provisions under BDCP that affect the Water Quality Control Plan for the Delta or the water rights permits of the projects.

Sacramento-San Joaquin Delta Conservancy (Delta Conservancy). The CALFED Bay-Delta Program was created in 1994 with the signing of the Bay-Delta Accord. Six years later, the CALFED Multi-Species Conservation Strategy, Programmatic EIR/EIS, and Record of Decision were completed, which outlined and highlighted the goals and objectives of CALFED for the 30-year term of the program. The CALFED effort was terminated. However, the Delta Reform Act created the Delta Conservancy to implement ecosystem restoration activities within the Delta. As such, the DFG, as the state's implementing agency for what was formerly known as the CALFED Ecosystem Restoration Program (ERP), now coordinates with the Council and the Delta Conservancy in the implementation of ERP activities to assure consistency with the Delta Plan. In July, DFG released the draft report, entitled "Conservation Strategy for Restoration of the Sacramento-San Joaquin Delta Ecological Management Zone and the Sacramento and San Joaquin Valley Regions," which is available for public review and comment until August 22, 2011.

Delta Protection Commission. The Delta Reform Act tasked the Delta Protection Commission with developing an Economic Sustainability Plan. A key purpose of the sustainability plan is to inform the Council for inclusion in the Delta Plan regarding the socioeconomic sustainability of the Delta region, such as public safety recommendations, economic goals, policies and objectives in local general plans and flood management plans, and identification of ways to encourage recreational investment along the key river corridors. A second draft of the sustainability plan was released on July 21, 2011.

Highlights of the BDCP. Following the release of the BDCP's working draft in November 2010, the Natural Resources Agency, the Department of Water Resources, and Department of Fish and Game, collectively, released in December 2010, a report titled "Highlights of the BDCP." The report briefly summarizes the background, implementation plans, environmental review, and projected outcomes of the BDCP. The report included summaries on: a new north-to-south of the Delta water conveyance facility; science-based operating criteria to manage the operation of new diversions and conveyances in the Delta; measures to restore, enhance, and protect Delta habitat; measures to address stressors on the Delta; and a monitoring program and adaptive management plan that measure the effects of conservation measures under the BDCP and provide a mechanism to ensure its effectiveness.

Interim Federal Action Plan Status Update. With the release of the "Highlights of the BDCP," the federal government issued an update to its 2009 report titled "Interim Federal Action Plan for the Bay-Delta," which describes a variety of federal actions and investments the federal

government has assumed or plans to undertake to help address the water supply and ecological issues surrounding the Delta. The update titled “Interim Federal Action Plan Status Update for the Bay-Delta: 2011 and Beyond” (Action Plan) reviews the federal agencies' progress in carrying out the 2009 Action Plan and sets out the agencies' priorities for addressing the issues of water supply reliability and ecosystem health in the Delta. The Action plan also reports on near-term accomplishments with regard to water conservation and efficiency, water quality and other stressors and aid provided to farmers. The Action Plan also focuses on the federal government's involvement in and assessment of the development of the BDCP.

There are other organizations that have been vocal and provided viewpoints that vie for priority in finding a solution for the co-equal goals, which are briefly described in Attachment 1. The list is not intended to be all-inclusive; it does, however, provide further indication of the breadth of the State, federal, and other parties' involvement in the Delta.

Next Steps. The Delta planning process is daunting. The two processes are dependent on each other for their own success – the Delta Plan, while all encompassing, does not specifically deal with a proposed canal or tunnel moving water through the state, but the BDCP does; and the BDCP must meet the statutory criteria and receive the Council's support in order to receive public funds for public restoration benefits. In order to better understand the myriad of efforts taking place in the Bay Delta, Delta processes and potential price tag of the efforts, the Water Authority plans to hold board workshops in the near future. Representatives from the various organizations and other stakeholders will be invited to brief the Board on their perspectives given the importance of the two processes and their views on the released documents that formulate the future of the Delta. The following is an estimated timetable for this Water Authority Board process:

- September 22, 2011 Imported Water Committee:
 - Perspective from agricultural water district stakeholder
 - Perspective from environmental stakeholder
 - Perspective from In-Delta region
- November 10, 2011 Special board meeting workshop:
 - Perspective from Metropolitan Water District
 - Perspective from State and Federal Water Contractors Authority
 - Perspective from Delta Stewardship Council
 - Perspective from State Water Resources Control Board
- January 2012 Special board or regular meeting:
 - Board consideration of staff recommendations regarding Delta issues

That while the board will consider adopting policy position at the January 2012 meeting, it is anticipated that the board will continue its dialog and consider additional policy positions at future meetings as the Bay Delta Conservation Plan and other Delta planning activities progress.

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Attachment 1: Summary of Other Delta Efforts and Actions.

Summary of Other Delta Efforts and Actions

The Delta has been a source of conflict in California between those who seek water reliability and those who wish to restore the ecosystem. The conflict has hindered the success of past attempts to formulate an acceptable water resource management strategy for the Delta. Today, with the focus on resolving the water supply and ecological problems in the Delta, there is an opportunity to implement the Delta Plan and BDCP. The following section briefly describes some key organizations that have provided input or recommendations to the two processes in hopes of ensuring a safe and reliable water supply while solving the ecological problems in the Delta.

Association of California Water Agencies. On June 10, a coalition of water agencies, associations and other organizations, which included the Water Authority, expressed concern that the Delta Plan drafts gave the Council more of a regulatory role than authorized by the Delta Reform Act, such as regulating the conservation practices of water agencies that receive water from the Delta. The coalition felt that the emphasis on flow restrictions will either reduce or eliminate the benefits of the investments that the agencies are being asked to undertake in an isolated facility. As a result, the coalition submitted an Alternate Delta Plan to the Council requesting its inclusion in the environmental review process. The coalition felt that the Council's Delta Plan drafts fall short in addressing pertinent issues and by presenting the information sought in the Alternative Delta Plan, the Council would have a complete range of options in formulating its final Delta Plan. The coalition's Alternative Delta Plan will be included as one of the alternatives to be evaluated in the Council's upcoming EIR.

Delta Vision Foundation. In February 2007, then-Governor Schwarzenegger appointed the independent Delta Vision "Blue Ribbon" Task Force. In October 2008, the Task Force released the Delta Vision Strategic Plan. The Strategic Plan included a set of integrated recommendations by which the fundamental and co-equal goals of water supply reliability and Delta ecosystem restoration could be met; the Strategic Plan prompted the preparation of the BDCP. One of the key recommendations of the Strategic Plan was the construction of "dual conveyance" – a combination of a canal or tunnel and through-Delta conveyance – to facilitate a more reliable water supply for California. In March 2009, members of the Task Force formed the Delta Vision Foundation (Foundation), as an independent body, to continue to advance the integrated set of recommendations and strategies proposed in the Strategic Plan, including the continued assessment and evaluation of progress by government and non-governmental stakeholders in implementing the Delta Vision Strategic Plan.

Last June, the Foundation released its second report card evaluation of the progress by state agencies, Legislature, and federal agencies to adopt and implement key recommendations and strategies identified in the Strategic Plan. The purpose of the report card is to provide an assessment of actions and organizations so that the public, agency managers and staff and policy makers could see the obstacles and prospects for achieving the co-equal goals. The report card was based on more than 40 interviews with state and federal officials and surveys completed by stakeholders and the public.

The report showed that only 25 percent of the Strategic Plan's 85 recommended actions are completed. While the report card gave mostly above-average remarks to state and federal agencies and non-governmental stakeholders for efforts in achieving the co-equal goals, less favorable marks were given for progress on major goals laid out in the Strategic Plan. For example, the progress on near-term actions was ranked as inadequate and received a grade of "D," particularly related to preparations for emergency response in the Delta, securing the existing water supply infrastructure and beginning ecosystem improvements. Other grades provided included: Governance was given a grade of "B+"; Ecosystem Restoration and Recovery received a "C-"; Delta Vitality and Security received a "C-"; and implementation of Water Supply Reliability received a "D+." While the Foundation recognized that planning is underway for conveyance and storage, it voiced concerns that sufficient progress has not been made on storage and conveyance investigations. The Foundation hopes this report acts a catalyst for the Brown Administration and the Legislature to elevate the importance of implementing the recommendations of the Strategic Plan. The Foundation has no official oversight role.

Environmental Water Caucus. The Environmental Water Caucus (EWC), a group of environmental, environmental justice, and Native American tribes, seeks to achieve comprehensive, sustainable water management solutions for all Californians. The EWC employs strategies to restore ecological health, improve water quality and protect public trust values throughout the San Francisco Bay-Sacramento/San Joaquin Delta estuary and the Central Valley/Sierra Nevada watersheds. The EWC released a report entitled "California Water Solutions Now." The report shows how California's water needs can be met with reduced water exports from the Bay Delta, which eliminates the need for a canal or tunnel. In addition, the EWC has been reviewing and commenting on successive drafts of the Council's Delta Plan. The caucus provided a series of recommendations that included a statewide conservation program that may reduce water use by 8 million acre-feet annually, thus reducing Delta pumping. The recommendations were presented as an alternative to the BDCP. The EWC's preferred alternative will be included as one of the alternatives to be evaluated in the Council's upcoming EIR.

National Research Council. The National Research Council (NRC) is a private, nonprofit institution and a division of the National Academies. The mission of the NRC is to "improve government decision making and public policy, increase public understanding, and promote the acquisition and dissemination of knowledge in matters involving science, engineering, technology, and health." Last May, the NRC released a report that criticized the November 2010 draft of the BDCP. The NRC's strongest criticism was that the draft lacked an "effects analysis," which is the heart of an HCP. In order to be incorporated into the Council's Delta Plan and for public funds to be made available for public restoration benefits, the BDCP must meet the statutory criteria in the Delta Reform Act, which includes the HCP. California's Natural Resources Agency agreed with that assessment, and the effects analysis is anticipated to be completed late-2011 or early-2012.

North Delta Water Agency. The North Delta Water Agency's (NDWA) primary purpose is to ensure and protect, through agreements made with the federal and state government, the water supply and quality for those property owners within its boundaries. Last April, NDWA property

owners passed a ballot measure agreeing to increase their assessment in order “to uphold an exceptional contract with the State that protects water quality and supply for lands” within its boundaries. NDWA states this effort would ensure its Northern Sacramento-San Joaquin Delta property owners’ water supply reliability as options on statewide water supply reliability are considered through the BDCP and Council processes. For example, if a tunnel or canal is built, as proposed by the BDCP, the projected \$13 billion+ project could compromise water quality for NDWA taxpayers, which NDWA believes must be mitigated, as too much water diverted from the Delta would cause saltwater to flow in from **San Francisco Bay**, hurting **crop production**. Its key defense is the 30-year-old contract with DWR, in which the state assures that its water diversions will not harm agency members. The assessment will assist the NDWA in expected increased legal costs to defend the contract, which could become an obstacle to constructing a new Delta tunnel or canal.

State and Federal Contractors Water Agency. The State and Federal Contractors Water Agency (SFCWA) supports its member agencies’ efforts in assuring a “sufficient, reliable and high-quality water supply for their customers.” Members of the SFCWA include the Santa Clara Valley Water District, Westlands Water District, Kern County Water Agency, Metropolitan Water District of Southern California, the State Water Project Contractors Authority and the San Luis and Delta Mendota Water Authority. A primary stated goal of SFCWA is to make recommendations that maximize the efficient operation of the State Water Project and federal Central Valley Project. When the Council released its fourth staff draft, SFCWA expressed “grave concern” with the direction the draft plan proposed – saying it has broadened the Council’s regulatory role, such as regulating the conservation practices of water agencies that receive water from the Delta, than is authorized in the legislation. SFCWA urged the Council to revise the plan to adhere to the 2009 legislation that created the Delta Plan process. Last June, through ACWA’s coordination, a coalition of agricultural and urban water agencies, including SFCWA and the San Diego County Water Authority, prepared an alternate Delta Plan, which will be considered in the Council’s California Environmental Quality Act (CEQA) analysis of the plan (see <http://socialwater.org/images/ag-urban-ii-coalition-alternate-delta-plan.pdf>).