

Bay Delta Conservation Plan (BDCP) Steering Committee (SC) Meeting

November 5, 2009, 9:00 a.m. to 12:00 p.m.
California Farm Bureau Federation Conference Room
2300 River Plaza Ave, Sacramento, CA

Draft Meeting Notes

Associated documents/handouts:

- *Agenda*
- *HO#1 Draft Chapter 8 Cost and Implementation Costs and Funding Sources*
- *BDCP Remaining Issues*

Action Items and Key Decisions

- Revise the list of remaining BDCP development issues to address SC member requested additions and to put in order of priority by next SC meeting
- Small group of SC members will develop recommendations to the SC regarding whether to create a new outreach working or advisory group
- Richard Roos-Collins to bring back a revised governance proposal to address the two key questions to be discussed at SC: 1) Who will be included in the management entity? 2) How will real time operations be defined and who will control them?

Updates

- DWR announced release of draft “near term” guidelines for Delta Levees Special Flood Control Projects; this will result in a new Project Solicitation Package (PSP). Funding will be appropriated through Senate Bill 2X1. DWR expects to award funding beginning in February 2010. Funding available will probably be in \$60-80 million range.
- DWR and NDWA technical staff met to review hydrodynamic modeling results. It was reported that the meeting was quite useful. The hydrodynamic modeling to support the biological effects analysis is in progress, and model outputs will be forthcoming from BDCP consultants.

Water Legislative Package

Keith Coolidge reported on recent water legislation. The California legislature passed five water bills that address: water rights; water conservation; groundwater monitoring and management; Delta governance system, which will include a Delta Stewardship Council and a Delta Conservancy and result in changes to the Delta Protection Commission (DPC) governance role; and an \$11.14 billion bond package, including \$3 billion in continuous funding for water storage.

The governance bill establishes co-equal goals of ecosystem restoration and water supply. By December 31, 2010, the State Water Resources Control Board will identify a system for water diversion data collection for flow standards. Criteria for this data collection will be established in the next nine months and the financial needs to carry it out will then be presented.

The governance bill establishes the Delta Stewardship Council (7 seats – 4 appointed by Governor, 1 by Senate, 1 by Assembly, and it includes the chair of the DPC). The Council elects its Chair (full time position), and the other seats are third-time positions. An independent science board (similar to CALFED Science Board) will be appointed by the Council; and the Council will develop a Delta Plan and make consistency determinations regarding all other plans at local, regional, state, federal levels in the Delta. The legislation also reduced the size of the Delta Protection Commission – from 23 members to 15. The BDCP is to be incorporated into the Delta Plan once the BDCP is approved as an NCCP by DFG.

Steering Committee members discussed how this legislation relates to BDCP. Companion federal legislation is expected to be forthcoming. The Delta Conservancy will be an “arm of the state” in managing Delta lands, though it may not own any lands. There was a concern expressed that a small number of Delta Stewardship Council meetings are required to be held within the Delta (travel considerations for Delta residents). In addition to governance, the bills impose additional new requirements related to the BDCP and its environmental documents. The SC should conduct a comprehensive review and analysis of the new legislation to determine any new requirements to be considered in BDCP preparation or in the BDCP EIR/EIS evaluation. It was noted that there is money in the bond for the BDCP, including \$1.5 billion that can be used for habitat conservation measures and other stressors conservation measures that might qualify.

Public Outreach

In addition to the weekly outreach call, last week Karla Nemeth met in person with Melinda Terry, Jason Peltier, Ann Hayden, and Kim Delfino to discuss additional opportunities to engage local jurisdictions and residents of the Delta and about a process to provide a more formal interaction with the Steering Committee. This group will come back to the Steering Committee with a proposal for a new outreach working or advisory group.

There was a question posed regarding whether Secretary Chrisman is still meeting with the counties. Karen Scarborough reported that attendance at the meetings has diminished, but that Secretary Chrisman is still available for meetings.

A suggestion was made to keep the BDCP public workshop report (October 22, 2009) a live document. Comments are still being received and are being added as per date received. The workshop report and materials provided at the workshops are posted on the BDCP website under the “Public meetings and documents” link.

Process and Schedule

There will be three more SC meetings in 2009 (one in November and two in December).

There was discussion about the Near-Term package of conservation actions being modeled by SAIC for the effects analysis. Modeling outputs will be provided to SC as they become available and it is expected that the SC will identify a Near-Term and a Long-Term package of operations for the Conservation Strategy by the end of January 2010.

February 2010 will be time to revisit text of the various working draft BDCP document chapters. All working drafts of chapters completed so far will be available for review in mid-December. Status of other chapters - Chapter 1 *Introduction* and outline of Chapter 5 *Conservation Strategy* will be presented at the next Steering Committee meeting; Chapter 9 *Alternatives to Take* will be presented at a later Steering Committee meeting.

Karen Scarborough distributed a draft of "Remaining Questions/Issues." Resolution of the issues will need to occur within the deliberations of the Steering Committee. Steering Committee Members may suggest modifications to the list of questions/issues.

Steering Committee Members discussed methods of identifying and resolving remaining issues and the relationship between comments made at SC meetings and comments provided in written form. The process will begin with identifying, framing, and prioritizing the remaining questions to be acted on by the SC.

Richard Roos-Collins will bring back a revised governance proposal to address the two key questions to be discussed at SC: 1) Who will be included in the management entity? 2) How will real time operations be defined and who will control them?

Suggested changes to the list of questions/issues included:

- Modify Question 4 on Long Term Operations to read: "What are the proposed long-term operations and the associated adaptive management range?" SC agreed with this new wording.
- Under Terrestrials Package/Acreage, Question 3c Request to modify to: "How do we ensure the plan serves as a NCCP?"
- Question 7, Costs a. Request to remove item "c. "Who contributes what?" from question.
- Questions 2 and 5, comment that there is no mention of the logic chain for targets and metrics in these questions.
- Suggestion to add to the third party issues such matters as safe harbor assurances and a process for paying for mitigation of impacts.
- Question of 6a, identify the need to resolve the role of the JPA in BDCP governance.
- Under Question 7 Costs, request to add: "What is the cost and funding source to provide payments in lieu of taxes?"
- Under Question 8 Changed Circumstances, suggestion that the word "all" be struck.

A revised version of the handout with revised questions/issues, reframed and prioritized will be provided at the next Steering Committee Meeting.

Public Comments:

Osha Meserve (Reclamation District 999 and Stone Lakes National Wildlife Refuge Association) commented that there are a lot of open questions from the in-Delta perspective and that the workshop summary identifies a lot of questions from which to incorporate more questions for this list. Ms. Meserve also stated that in regards to Question 3 (Terrestrial Package/Acreage), there is a need to coordinate with existing HCPs regarding species and that such coordination should be on the list. Something new brought up by the legislative package is: How will BDCP incorporate State Board minimum flows?

Draft Chapter 8 Implementation Cost

David Mitchell presented on the status of developing the BDCP implementation costs estimate (see powerpoint presentation *Cost Estimation Status*). Funding sources have not been identified in this draft of the chapter. The consultants are waiting for more information to better estimate costs for many of the conservation measures and will have a more complete chapter in December. Funding sources will be identified in 2010; it was mentioned that the PRE's will pay for existing Biological Opinion compliance obligations.

Steering Committee members discussed the assumptions used in the cost estimation. This is a high-level as opposed to a ground-level estimate, with the goal to avoid underestimating or over-inflating potential costs. If Steering Committee members see gaps, they are encouraged to bring them to the consultants' attention. It is noted that in order for any estimate to be accurate, many different elements must come together in just the right way. NDWA suggested that US Army Corps of Engineers cost estimates for levee work are often overestimations and offered to share information they have on such costs.

A number of other topics were discussed, such as: costs associated with paying in lieu taxes as land is converted to habitat; availability of more detailed technical appendices in 2010; clarification on what management and maintenance might entail - these terms will be further defined as spatial and temporal parameters for habitat acreage are delineated; comment regarding the socioeconomic impacts of habitat restoration and the consideration of those issues during the NEPA/CEQA process.

Note that Chapter 8 will ultimately identify both gross and net costs of program implementation. The net costs are the gross costs minus costs of actions that would occur regardless of BDCP authorization. It is noted that if the BDCP Management Entity redirects existing resources, these costs would be included (i.e., opportunity costs).

NMFS notes that net costs are very helpful, and suggests consulting the NMFS Draft Recovery Plan for details on the mark-select fishery program.

Dale Hoffman-Floerke (DWR) comments on Page 8-32, Table 8.42 (staffed positions) that simple restoration projects require 10-12 science positions. Ms. Hoffman-Floerke offers that this table is short-staffed on science positions and needs to be augmented.

Additionally, Ms. Hoffman-Floerke offers that the time allotted to the Staff Scientist position in Table 8.43 (50%) for monitoring and research is insufficient. Request is made by SC that DWR provide more information to consultants on these topics to update the table. Ms. Hoffman-Floerke responded that the consultants should also work with DFG on updating the table.

Anitra Pawley (DWR) asks about habitat restoration estimates – is the consultant looking at low end and high end of the acreage needs? Cheap projects vs. expensive projects? Response: The consultants are developing a range of habitat restoration costs based on different approaches to achieving the same restoration acreage.

Any additional information that can be contributed by SC members to support the development of Chapter 8, including comments on approaches and methodologies, would be appreciated.

Public Comments:

Pat Clark (City of Sacramento Councilmember Robbie Waters' Office) points out that Page 8-5 Line 13, should read “North Delta Intake facilities” (plural) instead of “facility” so it’s clear that it’s multiple intakes. Ms. Clark also asked for clarification on WOCM1 and the map that shows the proposed conveyance facilities (Figure 3-4). Ms. Clark emphasized the importance of slurry walls in levees and she reports that she is awaiting response to a request for another public meeting. Karla Nemeth will look into the public meeting request.

Effects Analysis – Overview of Approach

Paul Cylinder presented *Status Update of the BDCP Effects Analysis for Fish Species and Aquatic Natural Communities* (see powerpoint presentation). Steering Committee members discussed where and how metrics are being incorporated into the effects analysis. Work from the Metrics Group feeds into the effect analysis. The effects analysis group is awaiting two approvals from the lead agencies regarding: 1) assumptions regarding the modeling of the RPA’s from the biological opinion’s, and 2) the proposed approach to climate change analysis. Preliminary modeling results for near-term and early long-term without climate change will be presented at the November 19th SC meeting. Presentation of full modeling results of these analyses are schedule for the December 3rd SC meeting. In February all physical modeling should be completed with climate change included. Then the effects analysis technical subgroups will conduct the biological evaluation in March and April. There could be preliminary results in January on climate change that will support possible adjustment decisions by the SC. The narrowing of operational ranges for long term should be developed between now through January.

Concerns were raised about making policy and operational decisions on long term actions without a full climate change analysis. Paul Cylinder stated that adjustments by the SC to proposed operations accounting for effects of climate change could be made in January 2010 using initial preliminary modeling results. The consultants are working under the assumption that the biological effects analysis work in March and April will be based upon the physical modeling results completed at the end of February. Without changes to

proposed operations, the effects analysis (Chapter 5) could be completed by the end of April 2010. If SC proposes new water operations criteria in January 2010, then consultant team would have to re-start the physical modeling, and the Chapter 5 *Effects Analysis* completion date would move to July 2010. There was a request to have more regular updates on the effects analysis.

Attendees

Management and Representatives

Karen Scarborough (Chair, The Natural Resources Agency)
Laura King Moon (State Water Contractors)
Karla Nemeth (The Natural Resources Agency)
Keith Coolidge (California Bay-Delta Authority)
Dale Hoffman-Floerke (DWR)
Kari Fisher (CA Farm Bureau)
Patti Idlof (USBR)
Brent Walthall (Kern County)
Paul Robershotte (USACE)
Roger Patterson (Metropolitan Water District)
Jason Peltier (Westlands)
Ann Hayden (EDF)
Anthony Saracino (The Nature Conservancy)
Steve Ottemoeller (Friant Water Authority)
Melinda Terry (North Delta Water Agency)
Carl Wilcox (DFG)
Dan Castleberry (FWS)
Maria Rea (NMFS)
Paul Cylinder (SAIC)
Pete Rawlings (SAIC)

On phone

Marc Ebbin (DWR, The Natural Resources Agency)
Will Stelle (The Natural Resources Agency)
Greg Thomas (NHI)
Kurt Arends (Zone 7)
Steve Rothert (American Rivers)
Cindy Kao (Santa Clara Valley)
Greg Gartrell (CCWD)
Peter Landreth (Mirant)
Michael Tucker (NMFS)

Other attendees

See sign-in sheets