

**Bay Delta Conservation Plan (BDCP)
Steering Committee (SC) Meeting**
December 17, 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*
- *Draft BDCP SC Meeting Notes July 16, 2009*
- *Draft BDCP SC Meeting Notes September 24, 2009*
- *Draft BDCP SC Meeting Notes October 8, 2009*
- *Draft BDCP SC Meeting Notes October 22, 2009*
- *Draft BDCP SC Meeting Notes November 5, 2009*
- *Draft BDCP SC Meeting Notes November 19, 2009*
- *Draft BDCP Natural Community Biological Goals and Objectives*
- *Figures Referenced in BDCP Natural Community Biological Goals and Objectives*
- *Draft Covered Wildlife and Plant Species Biological Goals and Objectives*
- *Draft Steering Committee Meeting Agendas*
- *Draft Table 1. Covered Species and Other Native Species Groups Habitat Functions Typically Supported by BDCP Natural Communities*
- *Delta County Issues Summary – Framework for Response*
- *Disposition of BDCP Conservation Measures*
- *Letter from Stone Lakes National Wildlife Refuge Association regarding Comments on Figure 1.1 BDCP Planning Area Location and Need to Avoid Impacts on Public Lands*

Action Items and Key Decisions

- Tabled approval of Draft BDCP SC Meeting Notes handouts until the next meeting.
- SAIC will produce a document for the January 14 meeting that will identify the benefits (DRERIP scores), issues/practicability, costs and needs for additional detail for conservation measures.

Updates

- Kenny Watkins of the SC was elected first vice president of the California Farm Bureau Federation, and Jamie Johansson was elected second vice president.
- US Fish and Wildlife Service (USFWS) reported on the status of a federal workplan regarding Delta-related efforts. They expect to release the document next week.
- USFWS has been working on a draft recovery plan for tidal marsh ecosystems of central and northern California. They are close to announcing availability of that draft. Notification will be published in the Federal Register in early January 2010, which will start a 120-day comment period. There is some overlap between the areas covered in the draft recovery plan and BDCP Planning Area, specifically Suisun Marsh, as well as between species that are being considered. SC will invite USFWS personnel who have been working on the recovery plan to give a presentation that focuses on the overlap between it and the BDCP.
- There is information on the National Academy of Sciences website regarding its review of the OCAP Biological Opinions. They have posted the provisional committee appointments; this opens a 20-day comment period on those appointments. Their first meeting will be held January 24-28 at UC Davis. Part of that meeting will be open to the public.
- USFWS is working on scheduling a public workshop on Old/Middle River flows that will address the latest developments related to Delta operations (e.g., improvements to turbidity monitoring grid, plans for development of potential entrainment index, latest on Delta smelt behavioral model).
- The Fish and Game Commission has adopted regulations for bag limits on Sacramento splittail. There were no limits previously on splittail harvest. The new regulation establishes a harvest limit of two splittail per day, and fisherman may have only two splittail in possession. The Fish and Game Commission also adopted

regulations that closed the sturgeon fishery above Willows on the Sacramento River, in areas in which they spawn. No catch and release is allowed.

- Department of Fish and Game (DFG) reported that litigation that had prevented the Phase 2 portion of Battle Creek restoration from proceeding has been resolved, and the State prevailed.
- State Water Resources Control Board (SWRCB) discussed the schedule, resulting from the recent legislation, requiring the identification of Delta flow standards within nine months. An informational hearing will be held in March 2010. There will be a pre-proceeding hearing on January 7 to discuss procedures.
- Metropolitan Water District announced that a California Superior Court issued a preliminary decision issued on the Quantification Settlement Agreement (QSA) on the Colorado River. The ruling would invalidate the QSA decision. There could be significant implications for Colorado River water users.

Process and Schedule

The Draft Steering Committee Meeting Agendas handout was discussed. Next meeting dates are as follows: January 7 (1-4pm), January 14, January 21, and January 27 (Wednesday). The SC will be making decisions in January that will inform the effects analysis, which will commence in February and take about 20 weeks to complete (9 weeks to run physical models and 11 weeks for biological analysis). Climate change inputs will be available for inclusion in the physical models in January 2010, and the impacts analysis will be completed by June/July 2010. The goal for release of the public draft of the BDCP is September 2010. It was suggested that of governance and real-time operations decision-making should be discussed at SC meetings sometime during the next couple months. It was mentioned that the SC has been given chapters for review that have not yet been discussed at a SC meeting. Recently released and additional chapters will be discussed by SC during meetings held in February through June. The importance of addressing near-term operations was also discussed.

Presentation: Status Update of the BDCP Mini-Effects Analysis

Paul Cylinder presented a status update of the "Mini-Effects Analysis." In September and October of 2009, a full-effects analysis of draft near-term and long-term operations was initiated, starting with hydrodynamic model runs. Rather than conducting the full effects analysis, the approach was modified to conduct a "mini-effects analysis" which is a shortened more focused approach to evaluation draft BDCP conservation measures. This Mini-Effects Analysis will focus on providing recommendations to the SC for modifications to draft near-term and long-term operational criteria. Results of the mini-effects analysis will help inform the full effects analysis that will begin in February 2010. The mini-effects analysis will not address all covered species, but only key covered fish species (delta and longfin smelt, all salmonids, and green sturgeon). Major stressors for each life stage of each species are being identified for the analysis. Major stressors and drivers are defined for this purpose as those that could have population level effects on the species.

There will be a presentation to the SC of the preliminary results and recommendations coming from the Mini-Effects Analysis at the January 14 meeting. Questions and comments will be addressed at the January 14 and 21 SC meetings. Final results and recommendations of the Mini-Effects Analysis will be presented at the January 27 SC meeting. Discussion followed regarding the time table of the Mini-Effects Analysis, and the rate and timing at which information will be exchanged between the Technical Managers Group leading the Mini-Effects Analysis and the SC.

A request was made for more information on the major stressors identified by the technical workgroups. Another suggestion was made to look at the 20-page fishery agency letter on the Two-Gates project as it may assist the Mini-Effects Analysis. A question was raised about the assumption that water operations have population-level effects on smelt, and how the analysis is dealing with that issue. Suggestion made that the Mini-Effects Analysis examine all water operations whether they have population-level effects or not.

Clarification was requested as to why climate change was not included in the Mini-Effects Analysis. Dr. Cylinder responded that it was a matter of the timing of getting the climate change approach approved, getting the hydrodynamic models run, and having them done in time for the biological evaluation. Preliminary results of climate change evaluations will be presented to the SC in mid-January.

Public Comments:

Karen Medders (Walnut Grove resident) mentioned that sea lions (a protected species) are overpopulated in San Francisco Bay, and some are swimming up the Delta and eating salmon. Ms. Medders asked if sea lions are going to be a stressor addressed in the BDCP. Dr. Cylinder responded that there are conservation measures to control non-native predator fish species, but there are no conservation measures to control native predators such as sea lions.

Paul Gilbert Schneider (East Bay MUD) wanted to verify that Mokelumne River and other east side salmon fisheries are included in the study, in addition to Sacramento and San Joaquin species. Dr. Cylinder responded that the San Joaquin fall-run Chinook salmon includes Mokelumne and Cosumnes River runs.

Dean Ruiz (Central Delta and South Delta Water Agencies) asked about the SC schedule and a note for February 11, 2010 that says a decision about conveyance facilities will be made that day. What is being decided? Karen Scarborough responded that the decision is whether the conveyance facilities will be east canal alignment, west canal alignment, or all-tunnel. Dr. Cylinder adds that this decision is needed to conduct the full effects analysis, primarily to assess the impacts of conveyance construction on terrestrial species.

Public Outreach:

Karla Nemeth discussed ongoing efforts to address the suite of Delta issues that have been raised by the public. The Public Outreach group is developing a public information outreach plan to get the word out about BDCP milestones and topics. The *Delta County Issues Summary – Framework for Response* matrix handout has been designed to be a tracking tool of ongoing outreach. The issues listed in the matrix are those that were raised by Delta counties in written comments submitted during the scoping process and comments made at meetings with Secretary Chrisman.

Discussion followed about preparing a stand-alone information piece about BDCP's relation to Delta communities. The goal of a stand-alone piece would be to provide a single source of information to the public. This idea will be considered by the Public Outreach Workgroup.

A question was raised about San Joaquin County issues not being included in the handout. Ms. Nemeth stated that the reason is that San Joaquin County has not yet provided its concerns in writing.

Public Comments:

Ann Spaulding (City of Antioch) asked if there is a reason why the Public Outreach group is not in regular communication with some Delta counties. Ms. Nemeth responded that finding times when all parties are available to meet can be challenging, but that attempts were ongoing.

Ann Spaulding (City of Antioch) expressed a desire to comment on Chapter 1 in terms of public participation. Ms. Scarborough responded that comments to Chapter 1 will be accepted and addressed at some point during the time period of February to June 2010. Each chapter will be gone over during that time.

Justin Frederickson (California Farm Bureau Federation) asked if the comments in the matrix are separate from comments that would be reflected in the scoping report. Ms. Nemeth responded that this matrix includes some written comments submitted during the scoping process of the last two years, but that the scoping report stands alone as it relates to the EIR/EIS. The matrix includes both county comments and comments gathered from the scoping process.

Dean Ruiz (Central Delta and South Delta Water Agencies) stated that San Joaquin County sent a comment letter in May 2008 that discussed scoping and process issues and asked if that sort of letter would qualify as being something to add to the matrix. Ms. Nemeth responded that she will find that letter and insert it into the matrix.

Osha Meserve (Reclamation District 999 and Stone Lakes NWR Association) asked about the relationship between the workshop summary and this matrix. She suggested considering adding a BDCP chapter that could address concerns that don't easily fall into other chapters. She also pointed out that the coordination process required under NEPA is a way that the public agencies within the Delta should have a formal means of working with the BDCP.

Implementation Structure

Roger Patterson discussed three general issues to resolve. 1) Real-time operations - legislation recently passed by the State (SB7X1) has a provision requiring the BDCP to include a transparent real-time operational decision-making process in which Fishery Agencies ensure that applicable biological performance measures are achieved in a timely manner with respect to water system operations. Mr. Patterson and Carl Wilcox are working on edits to the BDCP Chapter 7 which may then be distributed to the Governance Workgroup. 2) The Governance Workgroup has been in discussion with DWR and Bureau of Reclamation regarding the implementation responsibilities among the contractor JPA, DWR, and Reclamation. 3) The roles of the new Delta Stewardship Council and Delta Conservancy will be described in the BDCP governance chapter. The Delta Council will be looking at a broader scale of resources as they develop the Delta Plan. The Council should be established by February 4, 2010.

Keith Coolidge (California Bay-Delta Authority) describes the idea of using the monthly Delta Stewardship Council meetings to get input, rather than creating new layers of meetings. They hope to have a draft approach for creation of the Delta Plan by January and an RFQ to hire a Plan preparer released by February. The final Delta Plan is to be adopted and implemented by January 1, 2012.

Discussion: Draft Conservation Strategy – Conservation Measure Review

Throughout January, the three types of conservation measures (water operations, habitat restoration, other stressors) will be reviewed and refined. A handout (*Disposition of BDCP Conservation Measures*) was given to SC members that lists all of the conservation measures currently proposed for the BDCP. SC members are advised to read the text of the conservation measures, comments that have already been made on the conservation measures, and the dispositions of comments (all available on the BDCP website).

To further assist in the process of reviewing the conservation measures, the consultant (SAIC) will create a table of information on the measures that will include 1) potential benefits (DRERIP scores), 2) issues and practicability, 3) cost, and 4) additional details that are needed for the specific measure. The intent of this exercise is to determine which conservation measures will be included in the BDCP full effects analysis to start in February 2010.

The conservation measure information table should be submitted to SC members for review by January 8 or 11. Measures that cannot be analyzed in the effects analysis because of a lack of information will be identified. A concern is expressed that some measures may get screened out of the BDCP based on cost.

Discussion: Terrestrial Communities and Species Conservation Approach and Biological Goals and Objectives

Campbell Ingram gave a brief overview of the progress of the Terrestrial Workgroup. Biological goals and objectives have been drafted for all of the terrestrial natural communities and for some of the species. They have not gone back to the terrestrial workgroup experts, but it is expected that the goals and objectives will not be changed a great deal. The next step will be working with the surrounding habitat conservation plans (HCPs) to identify how the BDCP and neighboring HCPs will coordinate implementation of their plans.

Pete Rawlings presented the terrestrial handouts. First, Mr. Rawlings went over the *Draft BDCP Natural Community Biological Goals and Objectives*. The approach for natural communities includes three types of measures: 1) those that preserve and protect existing habitat for covered species and other native species; 2) those that enhance habitats in the system that have been degraded, increasing their habitat functions; and 3) those that restore natural communities at sites where no habitat function presently exists.

A question was raised about how the group took into account climate change caused sea level rise in their plans for habitat restoration. Mr. Rawlings responded that the group focused on tidal habitat restoration sites with surface elevations that allow for accommodation of future sea level rise due to climate change. They have not yet determined how much restoration will go in specific locations, but that is the next step.

A question was raised about addressing the future of agricultural lands, as crop types may change over time. Mr. Rawlings responded that the group is dealing with the landscape as it is today. When the BDCP implementing or management entity acquires a piece of agricultural land for conservation, it is anticipated that these lands will continue as working landscapes. Particular wildlife habitat functions are the goal, and there are typically suites of

crops that provide those functions. The range of crops and their functions and values can be managed in the future to ensure that the habitat functions are maintained.

Mr. Rawlings reviewed the *Draft Covered Wildlife and Plant Species Biological Goals and Objectives* handout. There are 43 proposed terrestrial (plant and wildlife) covered species, and 29 have conservation measures completed at this time. A question was raised about the overlap between BDCP species habitat goals and the habitat goals anticipated in local government-sponsored HCP/NCCPs - will they complement one another so that meeting the goal of one plan satisfies some or all of the goal of another, or is the target acreage additive in that there must be enough habitat to satisfy each plan separately? Paul Cylinder and Marc Ebbin responded that it depends on the specific purpose of the habitat acreage, but it may be possible that the same acreage could be used to meet the requirements of both plans. Mitigation obligations would be additive so that each plan mitigates for its own impacts separately; however, conservation efforts may potentially be complementary between plans.

A point is made that three of the local plans are HCPs only and do not meet the standards of the NCCP Act. A request is made to make clear on maps that show neighboring plans which are HCPs and which are NCCPs, which plans have been completed and approved, and which are in progress.

A question was raised about the process and timeline for including terrestrial acreage target numbers. Mr. Rawlings responded that the next steps include completion of proposed conservation measures for the remaining species. The terrestrial group is putting together information regarding existing community distributions, existing protected lands, estimates within conservation areas of natural communities and habitats that could be impacted by the BDCP covered activities and conservation measures, and possible linkages between communities and their quality of habitat and level of existing protection. The terrestrial group will return to SC January 14 with additional conservation measures and acreage targets for natural communities and species. The current assumed footprint for the conveyance facility that is being used to determine the necessary mitigation is the east alignment canal. If an option is chosen that changes the footprint (e.g., all-tunnel approach), the acreages may be adjusted.

A point was made that NOAA/NMFS and the U.S. Army Corps of Engineers should provide technical assistance on planning the restoration of riparian channel margin habitat. A lack of rearing habitat along the Sacramento River and throughout the Delta from a lack of riparian forest poses a significant threat to salmonids. Dr. Cylinder responded that the target for riparian restoration (5,000 acres) would be met in three ways: 1) at the upper edges of restored tidal habitat where the substrate is appropriate, 2) on restored floodplains, and 3) on berms and benches of enhanced channel margins.

A question was raised about how the riparian restoration will be mapped. Paul Cylinder responded that specific locations have not been identified. What can be identified is where within the Restoration Opportunity Areas the riparian restoration should be distributed, which will help in the assessment of the potential benefits for fish. A suggestion was made for a meeting of the U.S. Army Corps of Engineers, DWR, NOAA/NMFS, and the Water Contractors to discuss this topic further.

The SAIC consultant team was acknowledged by the SC for their diligence in developing the BDCP.

Public Comment:

Dan Kelly (Sacramento County) asked about the coordination that has occurred with Delta counties and other regional HCPs. Ms. Scarborough responded that three years ago the Natural Resources Agency started having quarterly meetings with representatives from the local governments engaged in regional conservation planning, which evolved to include more detailed meetings with DFG. Ms. Nemeth responded that DFG held a series of meetings over the summer with representatives of the neighboring plans to provide details on the development of the BDCP. Carl Wilcox described the meetings that DFG held with the representatives of the neighboring plans over the summer. They met with all local government staff individually and they identified areas of concern and opportunity.

General Public Comment:

Osha Meserve (Reclamation District 999 and Stone Lakes NWR Association) submitted a letter from Stone Lakes NWR Association that contains comments on Figure 1.1 (BDCP Planning Area Location) and avoidance of impacts on public lands. Figure 1.1 identifies the Stone Lakes refuge, but lacks identification of other parks and public lands. The submitted letter stresses the importance of avoiding impacts on parks and includes a preliminary list of parks requested to be added to Figure 1.1 or noted on a new additional figure. The letter also addresses a

presentation about Chapter 8 (Implementation Costs) given to the SC on December 3, 2009. The presentation assumed no acquisition costs for state and federal public lands. The letter suggests that this is not entirely accurate, and requests an explanation for this assumption.

Attendees

Management and Representatives

Karen Scarborough (Chair, The Natural Resources Agency)
Marc Ebbin (DWR, The Natural Resources Agency)
Laura King Moon (State Water Contractors)
Karla Nemeth (The Natural Resources Agency)
Tom Howard (State Water Resources Control Board)
Keith Coolidge (California Bay-Delta Authority)
Jerry Johns (DWR)
Paul Robershotte (USACE)
Jason Peltier (Westlands)
Brent Walthall (Kern County)
Roger Patterson (Metropolitan Water District)
Greg Zlotnick (Santa Clara Valley)
Ann Hayden (EDF)
Anthony Saracino (The Nature Conservancy)
Campbell Ingram (The Nature Conservancy)
Steve Ottemoeller (Friant)
Carl Wilcox (DFG)
Kurt Arends (Zone 7)
Ara Azhderian (San Luis Delta-Mendota)
Patti Idlof (USBR)
Kenny Watkins (CA Farm Bureau)
Dan Castleberry (FWS)
Maria Rea (NOAA/NMFS)
Michael Tucker (NOAA/NMFS)
Paul Cylinder (SAIC)
Pete Rawlings (SAIC)

On phone

Greg Gartrell (Contra Costa Water)
Melinda Terry (North Delta Water Agency)
Cindy Kao (Santa Clara Valley)
Greg Thomas (NHI)
Peter Landreth (Mirant)
