

Bay Delta Conservation Plan (BDCP)

Steering Committee (SC) Meeting

April 8, 2010, 9:00 a.m. to 11:00 a.m.
California Farm Bureau Federation Conference Room
2300 River Plaza Ave, Sacramento, CA

Draft Meeting Notes

Associated documents/handouts:

- *Agenda*
- *U.S. Department of the Interior News Release regarding Completion of Draft Bay Delta Conservation Plan*

Action Items and Key Decisions

- None

Updates

- U.S. Department of the Interior Deputy Secretary David J. Hayes and California Natural Resources Secretary Lester Snow jointly announced the commitment of federal and state agencies to complete a draft of the Bay Delta Conservation Plan in November 2010 (see press release on BDCP website).
- DWR has finished the permitting process for installing an experimental non-physical fish barrier. This experiment will include a predator-marking component. Next year, a predator-control component may be included.
- DWR water allocations have been increased to 20% based on recent storms.
- Metropolitan Water District recently met with members of Congress in Washington DC to discuss the status of BDCP development.
- Westlands Water District expressed concern regarding the April 2010 fall-run salmon fishing regulations and the potential harm they pose for the winter-run salmon population. In addition, it was noted that holding water exporters to a high standard of reducing take of winter-run salmon while allowing fishermen to potentially take the fish without consequence is an inequitable application of regulations. NMFS clarified that the fishing period is focused on fall-run and open for one month to sport fishing only (new Biological Opinion expected in May 2010).
- The Water Education Foundation is doing a one-day field trip to Suisun Marsh on Friday, April 30, 2010.
- USFWS announced that delta smelt was recommended for uplisting from threatened to endangered under the Endangered Species Act; however, uplisting was precluded by the need to address multiple other species in similar status with limited resources.
- The Contra Costa Water District Board of Directors certified the EIR and approved the Los Vaqueros Reservoir Expansion Project on March 31, 2010. Construction could begin as soon as January, 2011.

- Contra Costa Water District and DWR staff are meeting today to collaborate on Dutch Slough habitat restoration.
- The Contra Costa Water District is accepting bids for the Contra Costa Canal fish screen project at the Rock Slough Intake.

Process and Schedule

Upcoming meetings will include presentations and discussions on BDCP Chapter 8, *Implementation Costs and Funding Sources*; Chapter 7, *Implementation Structure (Governance)*; and the Effects Analysis hydrologic modeling. The aquatic goals and objectives are waiting on input from the Logic Chain effort.

Presentation: National Research Council (NRC) Report: A Scientific Assessment of Alternatives for Reducing Water Management Effects on Threatened and Endangered Fishes in California's Bay Delta

Denise Reed (University of New Orleans) discussed the NRC report and the panel discussions that led to the report's conclusions and recommendations concerning the Reasonable and Prudent Alternatives (RPA's) listed in the Biological Opinions for protecting delta smelt and winter-run Chinook salmon. A question was raised about whether the NRC committee reached a consensus or if only a small majority came to agreement. Dr. Reed responded that the committee did reach consensus after many discussions, and then the paper went through review. The review resulted in several phrasing changes, but the essence of the recommendations remained the same.

The committee concluded that slowing or reversing the declines of the listed species cannot be accomplished immediately. The delta smelt discussion focused on Old and Middle river (OMR) reverse flows, the location of X2, and tidal habitat. The committee concluded that until better monitoring data and comprehensive life cycle models are available, it is scientifically reasonable to conclude that high negative OMR flows in winter probably adversely affect smelt populations. However, because of this lack of information, the threshold values to be used in the action to change OMR reverse flows and the potential benefits to the delta smelt population were not clear to the committee.

The committee found the idea that shifts in X2 affect habitat quality to be conceptually sound; however, the committee felt that how specific X2 targets are chosen and their potential beneficial effects determined requires further clarification. A question was raised about how to reconcile the use of X2 as a habitat quality indicator if the delta smelt populations are still in decline despite X2 locations that would indicate ample good quality habitat. Dr. Reed responded that other stressors in the system are contributing to the decline in delta smelt populations. The committee's next report will discuss other stressors. The tidal habitat restoration action evaluation in the USFWS Biological Opinion was considered by the committee to be conceptually weak based upon the information available in the Biological Opinion. The committee felt that more detail was needed on what the restoration would entail and what it would achieve. The committee recommends that tidal habitat restoration move forward in a phased implementation approach.

On salmonids, the committee found the actions to be scientifically justified, but again felt that the chosen triggers and thresholds were not clearly justified by the information presented.

The committee felt that because there are so many proposed actions, it is difficult to ascertain to what extent the collective actions will appreciably improve salmonid survival. Additional findings of the committee on salmonids include: 1) the rationale for increasing San Joaquin River flows has a stronger foundation than does the prescribed export action; 2) there is a need to consider possible ‘negatives’ of actions (e.g., the Fremont Weir/Yolo Bypass action does not address potential increased methylation of mercury associated with the action); and 3) the effects of salmonid actions on smelt is not clear.

In sum, the committee concluded that the RPAs found in the Biological Opinions lack an integrated quantitative analytical framework to tie the various actions together within species, between species, and across the watershed. The committee recognizes that this type of systematic, formalized analysis would likely be beyond the two agencies’ legal obligations when rendering two separate biological opinions; however, the committee feels this is necessary to provide an objective determination of the net effect of all proposed actions on the listed species and on water users. There is a need for better tools for evaluating the collective effects of actions on species.

Questions & Answers:

Appreciation was expressed by the Steering Committee for the effort put forth by the NRC committee to produce this report. It was noted that the report used different phrases to describe the actions (e.g., scientifically reasonable or justified, and conceptually sound), and a question was raised as to whether this was an intended distinction between actions. Dr. Reed responded that an action deemed scientifically justified by the committee had enough detail to be ready for implementation. A conceptually sound action lacked sufficient detail.

The overall conclusion of the committee that slowing or reversing the declines of the listed species cannot be accomplished immediately was called into question. It was pointed out that delta smelt had large population growth in the late 1980’s. Dr. Reed responded that the committee did not feel that any one action or group of actions proposed in the Biological Opinions would result in immediate population recovery. Natural fluctuations in population will still occur.

How the recommendations of the NRC report can be addressed has been the subject of discussion among the federal agencies. It was offered that the BDCP process will help develop the next round of biological opinions and should address the NRC recommendations, especially the recommendation on integration. There were reasons why the two Biological Opinions were not well integrated (e.g., timing of reports, requirements resulting from court decisions, etc.) that do not apply to the BDCP.

The statement of tasks for the next NRC report includes providing advice on how to most effectively incorporate science and adaptive management concepts into holistic programs for management and restoration of the Bay-Delta. The Steering Committee members are encouraged to review the NRC report and figure out how it best informs BDCP development, and consider how the Steering Committee can best inform the NRC committee on how to assist the BDCP.

Public Comments:

Ann Spaulding (City of Antioch) asked if the proposed action to increase San Joaquin River flows took into account San Joaquin River water quality and its effect on fish. Dr. Reed responded that she did not recall seeing much on San Joaquin River water quality in the Biological Opinions.

Linda Dorn (Sacramento Regional County Sanitation District) asked if during the second phase and with development of the second report there will be recommendations made on what tools or models can be used to develop an integrated, holistic analysis. Dr. Reed responded that what will happen during the second phase is still under discussion. Dr. Reed pointed out that the second NRC report is due in November 2011, and July 13-15, 2010 is the next meeting of the panel.

Public Outreach

Karla Nemeth (The Natural Resources Agency) is engaged in ongoing discussions with Yolo County and SAIC on an agenda for the first Yolo Bypass Local Issues group meeting. A draft agenda for a tour of the Delta will be coming soon.

General Public Comments:

Osha Meserve (Reclamation District 999 and Stone Lakes NWR Association) stated that the Stone Lakes NWR Association is awaiting information on proposed locations of intakes for the all-tunnel alternative. Ms. Meserve has requested this intake information from BDCP, The Natural Resources Agency, DWR, and DHCCP. The Stone Lakes NWR Association would like to be involved early in the process of design and engineering because two intakes and associated facilities, including the 750-acre forebay will be adjacent to the refuge even if they do not cross refuge boundaries; and these facilities will have effects on the refuge. The Stone Lakes NWR Association wants to be more involved so they can submit technical comments and asks that the agencies expedite responses to her requests for information. Karen Scarborough responded that The Natural Resources Agency received Ms. Meserve's request last week and is working on it.

Osha Meserve (on behalf of herself) commented on the concern expressed by Westlands Water District about the April 2010 fall-run salmon fishing regulations that allow fishing of fall-run salmon, which could inadvertently result in take of some winter-run salmon. Ms. Meserve stated that it is unfair to equalize recreational fishing with other stressors on fish and suggests that recreational and commercial fisherman should be more involved in the development of the BDCP. Brent Walthall (Kern County Water Agency) agreed with Ms. Meserve's comments about including fisherman in development of the BDCP, and clarified that the discussion at the beginning of the meeting was about the inequity of regulation application rather than fishing itself.

Brett Baker (Delta resident) expressed that, as an observer living across from the Delta Cross Channel, it appears that the fish entering the intakes there do not have much chance of survival.

Jonas Minton (Planning and Conservation League) distributed the Planning and Conservation League's "8 Affordable Water Solutions for California" booklet to Steering Committee members and requested that the members look at two proposed solutions to reduce reliance on Delta water supplies – a recommended method and funding mechanism for development of flow standards for the Delta and upstream tributaries; and a recommendation to analyze the

proposed 3,000 cfs tunnel in the context of science-based flow standards. Mr. Minton noted that the East Bay Municipal Utility District (EBMUD) and Sacramento County were dedicating a new intake on the Sacramento River that day and that EBMUD won approval of that intake project by being flexible with the design in order to reduce opposition to the project.

Attendees

Management and Representatives

Karen Scarborough (Chair, The Natural Resources Agency)
Laura King Moon (State Water Contractors)
Karla Nemeth (The Natural Resources Agency)
Jerry Johns (DWR)
Paul Robershotte (USACE)
Jason Peltier (Westlands Water District)
Brent Walthall (Kern County Water Agency)
Roger Patterson (Metropolitan Water District)
Campbell Ingram (The Nature Conservancy)
Carl Wilcox (DFG)
Cindy Kao (Santa Clara Valley Water District)
Melinda Terry (North Delta Water Agency)
Ara Azhderian (San Luis & Delta-Mendota Water Authority)
Federico Barajas (USBR)
Kenny Watkins (California Farm Bureau Federation)
Dan Castleberry (USFWS)
Michael Tucker (NOAA/NMFS)

On phone

Marc Ebbin (DWR, The Natural Resources Agency)
Richard Roos-Collins (American Rivers)
Ann Hayden (Environmental Defense Fund)
Anthony Saracino (The Nature Conservancy)
Gary Bobker (The Bay Institute)
Steve Ottemoeller (Friant Water Authority)
Greg Gartrell (Contra Costa Water District)
Greg Thomas (Natural Heritage Institute)
Peter Landreth (Mirant)
Paul Cylinder (SAIC)
