

**Bay Delta Conservation Plan (BDCP)
Steering Committee (SC) Meeting**
August 13, 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 May 22, 2009*
- *Draft BDCP Fall 2009 Community Workshops – annotated agenda for West Delta workshop v1 081009*

Action Items and Key Decisions

- None

Updates

- Interior Deputy Secretary David Hayes and Department of Water Resources Director Lester Snow conducted a web-cast Water Issues Forum yesterday. The presentation covered a range of the issues facing the Delta. The next forum will be held next month in Washington, D.C.
- Russ Strach announced that today will be his last meeting as the NMFS representative on the BDCP Steering Committee. Maria Rea has been designated as his replacement on the SC, and Michael Tucker will serve as her alternate.
- Barbara Byrne announced she is leaving the Planning and Conservation League and will be going to work for NMFS.
- Bills related to Delta governance were introduced in the state legislature. An informational hearing has been scheduled for August 18.
- DFG announced they have received a request from DWR for a CESA consistency determination on the NMFS biological opinion (BO) regarding OCAP.
- DWR announced they have also requested a re-consultation on the NMFS BO.
- DWR announced that an “all tunnel” conveyance option is being evaluated in addition to the other isolated conveyance options.
- The representatives of Delta counties will review the matrix of local government concerns before it is released to the SC.
- A link for DWR’s e-News page will be added to the BDCP website.

Process and Schedule

Karen Scarborough, chair, stated that the Steering Committee (SC) meetings will become more oriented toward working sessions to review consultant team products, with less reliance on working groups and technical teams to undertake this review. There are still active working groups, such as the Governance Work Group.

SC members discussed the need for increased access to products prepared through the BDCP EIR/EIS development process. USBR responded that, as lead agency, they have to follow regulatory processes

and information cannot always be made available in advance of regulatory requirements. The EIR/EIS team will provide monthly updates to the SC on the EIR/EIS process.

SC members requested that working BDCP documents be distributed earlier to allow for more time for review in advance of SC meetings. Outlines of Chapters 1 and 7 will be available at the next SC meeting.

Public Outreach

Karen Scarborough reported on Secretary Chrisman's monthly meetings with Delta counties. There were meetings last week with representatives of five counties participating in HCP and NCCP efforts.

Karla Nemeth reported on the community workshops scheduled for September. Ms. Nemeth presented an updated annotated agenda for these workshops, entitled *Draft BDCP Fall 2009 Community Workshops* (see associated documents/handouts). A workshop in Brentwood has been added for west Delta stakeholders. Workshops will include an introductory presentation, two-hour break out sessions, and a reporting-back session.

Governance

Marc Ebbin reported the next meeting of the Governance WG will be Aug 19 and will include an overview of legislation recently introduced to address Delta issues.

Army Corps of Engineers Presentation

Paul Robershotte introduced a presentation on the roles and responsibilities (see associated documents/handouts) of the USACE in the Delta and in the BDCP process.

Michael Jewell, Chief of the Regulatory Division, discussed the importance of BDCP to the USACE, as a cooperating agency on the BDCP EIS. Mr. Jewell emphasized the need for BDCP to initiate the application for the section 404 permit as soon as feasible before the draft EIR/EIS is prepared. Permit application is needed so USACE can initiate their section 404 process. Delineation of waters of the U.S. can be prepared at a high level, with more detail developed for site specific projects. Mr. Jewell also indicated that the USACE will need a functional assessment to be prepared for waters of the U.S..

Meegan Nagy, Chief of the Flood Protection and Navigation Section, discussed the levee and flood issues that may arise in the Delta and the complex section 408 permitting process that will be necessary to implement certain actions under the BDCP. Under section 408, the USACE must provide permission to the Central Valley Flood Protection Board to allow any actions that affect federal levees. USACE engineers will need to evaluate the potential effects on flood risk of proposed BDCP actions. The USACE expects that this evaluation under section 408 will be very complex. An independent peer review must be conducted on the applicant's engineering designs. Applicant is responsible for conducting all hydraulic analysis and convening the panel of independent engineers. USACE section 408 permission must occur before section 404 permits may be issued for a proposed action.

Tanis Toland from the Delta Programs Integration Division outlined the process necessary for non-federal entities to invite the USACE to conduct studies on flood, water supply, conveyance, habitat, navigation and recreation.

SC members discussed issues and questions raised by the USACE presentations including: the regulatory relationship between the USACE Sacramento and San Francisco district offices (Sacramento district will be the lead regulatory for BDCP permitting); how the section 408 permitting process is integrated with

the section 404 and section 10 permitting processes; question whether BDCP should engage with USACE at headquarters level; inquiries into such matters as EIR/EIS coordination of 404/408 permitting with USACE, timing of emergency response by USACE to catastrophic events, access to stimulus funding, participation of USACE in the next BDCP meetings planned for Washington D.C., briefing by the USACE on timing and scheduling for permit applications, concern that DHCCP effort on the BDCP EIR/EIS is not transparent, and request for an update on the McCormick-Williamson Tract project.

Public Comment:

Mark Wilson (Clarksburg) asked about channel maintenance responsibilities and requested information on updates of completed dredging projects in the Delta conducted by USACE and the State. Paul Robershotte responded that the USACE annual operating program map can be made available. Jerry Johns indicated that the State does not have responsibility for dredging in the Delta and that dredging is generally conducted by local landowners. Meegan Nagy said the USACE is responsible only for the Sacramento and Stockton deep water ship channels.

Karen Medders (Delta resident) indicated that private dredging was banned in the Delta 28 years ago.

State Water Resources Control Board Presentation

Tom Howard from the State Water Resources Control Board gave a presentation on the Water Board's responsibilities in the Delta (see associated documents/handouts).

SC members discussed issues and questions raised by the presentation including: flow alternatives at Vernalis; DFG statutory obligations to provide flow recommendations; waste water permits and whether the Water Board consults with DFG (DFG indicated they did not); concern the Water Board is not addressing other stressors; the Water Board's objectives for water quality.

Public Comment:

Don Zay (Northern California Water) raised questions about over appropriation of water in wet and dry years. Tom Howard acknowledged that there has been over appropriation in some water bodies.

Ann Spaulding (City of Antioch) asked about Emmaton compliance point being moved and what would the Water Board do about it. Tom Howard responded that if BDCP proposes this change, the Water Board would address it through the appropriate hearings and decision process. Jerry Johns stated that several proposed actions of the BDCP would need to be addressed by the Water Board and that DWR would need to petition the Water Board and formally initiate the applicable processes at the appropriate time.

Questions on Chapter 3

SC members discussed ongoing questions related to Chapter 3 *Conservation Strategy* including: whether the proposed 80,000 acres identified for habitat restoration includes mitigation for terrestrial species impacts. Paul Cylinder responded that this restoration would address terrestrial species mitigation in part, but that there would be more to come from the Terrestrial Resources Subgroup.

Public comment:

Oshe Meserve suggested changing the terminology for the new north Delta “bypass flows” to “instream flows” instead.

Attendees*Management and Representatives*

Karen Scarborough (Chair, The Natural Resources Agency)
Marc Ebbin (DWR, The Natural Resources Agency)
Will Stelle (The Natural Resources Agency)
Laura King Moon (State Water Contractors)
Karla Nemeth (The Natural Resources Agency)
Keith Coolidge (California Bay-Delta Authority)
Jerry Johns (DWR)
Federico Barajas (USBR)
Paul Robershotte (USACE)
Brent Walthall (KCWA)
Roger Patterson (Metropolitan Water District)
Jason Peltier (Westlands)
Kurt Arends (Zone 7)
Kim Delfino (Defenders of Wildlife)
Anthony Saracino (The Nature Conservancy)
Gary Bobker (TBI)
Kenny Watkins (CFBF)
Melinda Terry (North Delta Water Authority)
John McCamman (DFG)
Dan Castleberry (FWS)
Russ Strach (NMFS)
Paul Cylinder (SAIC)

On phone

Cindy Kao (Santa Clara Valley)
Ann Hayden (EDF)
Greg Thomas (NHI)

Other attendees

See sign-in sheets
