



# REPORT TO PLANNING COMMISSION City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

INFORMATION  
July 22, 2010

To: Members of the Planning Commission

**Subject: Delta Vision (LR10-006)**

An overview of State legislation and activities relating to the Delta that may affect Sacramento's water rights, drainage and wastewater disposal, and land uses.

**Location/Council District:** Citywide

**Recommendation:** This item is for Planning Commission information only; no action is requested by staff. The Commission may wish to direct staff to invite knowledgeable guest speakers to further explore the issue of how the legislation might impact land use decision making authority.

**Contact:** Scot Mende, New Growth Manager, (916) 808-4756

**Summary:** On the date of May 27, 2010, the Planning Commission requested that staff agendize for Commission discussion the Delta Vision project. This staff report provides background on the November 2009 water legislation package and other concurrent activities related to the Delta Vision.

**Background Information:**

**Plans, Committees and Commissions**

In 1992, the California Legislature passed and the Governor signed into law the Delta Protection Act of 1992 (SB 1866). This Act established the **Delta Protection Commission** (DPC), a new State entity, to plan for and guide the conservation and enhancement of the natural resources of the Delta while sustaining agriculture and meeting increased recreational demand. The Act requires the DPC to prepare and adopt, and thereafter review and maintain, a comprehensive long-term resource management plan for land uses within the Primary Zone of the Delta. The Land Use and Resource Management Plan (RMP), originally adopted on February 23, 1995, outlined long-term land use requirements for the Sacramento-San Joaquin Delta.

**CalFed** began in 1994 as an agreement between the federal and state governments to work together on delta water issues. In 2000, the state and federal governments created

a more formal process. Ultimately, CalFed became an amalgamation of 25 local, state and federal agencies and other organizations with disparate interests in the delta.

In 2002, the Legislature created a new governing board to oversee CalFed: the Bay-Delta Authority. But the authority stopped meeting in the past few years because not enough members showed up for the scheduled sessions.

The **California Bay-Delta Authority**, created as a mix of state and federal agency and public members in 2003, has been judged in several independent reviews to have been largely ineffective. Its failure has been largely attributed to a lack of statutory authority to enforce priorities and an inability to direct policy through a budgetary approval process.

In September 2006 Governor Schwarzenegger signed Executive Order S-17-06. This Executive Order built on the Legislature's SB 1574, AB 1200 and AB 1803. The Executive Order launched the **Delta Vision process** by establishing a Blue Ribbon Task Force, a Cabinet-level Delta Vision Committee, Delta Science Advisors, and a Stakeholder Coordination Group. The independent Blue Ribbon Task Force was charged with developing both a long-term vision for the Delta and a plan to implement that vision. That same Executive Order charged a Committee of the Governor's Cabinet Secretaries, the Delta Vision Committee, to review the completed work of the Task Force and to make their own implementation recommendations to both the Governor and Legislature by December 31, 2008.

The **Delta Stewardship Council** was established as an independent State agency, effective February 3, 2010 by the Sacramento-San Joaquin Delta Reform Act of 2009 (§85000 et seq of the Water Code). The Council's primary duty is to develop and adopt by January 1, 2012, a comprehensive resource management plan for the Delta that furthers the co-equal goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem (which must be achieved in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.) The 2009 Act transferred to the Delta Stewardship Council all of the staff, resources, and administrative rights, duties and obligations of the California Bay-Delta Authority.

In crafting the stewardship council, lawmakers sought to avoid the pitfalls that doomed CalFed. They made the council small and powerful - a panel of only seven individuals - as opposed to the more than two dozen agencies that made up CalFed.

The Delta Stewardship Council, which succeeds the CALFED Bay-Delta Authority, is the most significant player in terms of the impact of its decisions on public agencies because the Council will make decisions that will impact future land use and planning throughout the state. The Council is tasked with developing and implementing a regional land use plan for the Delta (the "Delta Plan") that will guide state and local land use decisions in the Delta to further the co-equal goals of maintaining a sustainable water supply and protecting the Delta ecosystem. Additionally, the Council must develop performance measures for the assessment and tracking of progress and changes to the health of the Delta ecosystem, fisheries, and water supply reliability. These measures ultimately may impact future Delta water delivery decisions until an alternative conveyance system through or around the Delta is identified and constructed.

The Council's land use authority also may extend to projects outside of the Delta if the Council determines the project has a significant impact on the Delta.

**The Bay Delta Conservation Plan (BDCP)** is being developed to promote the recovery of endangered, threatened and sensitive fish and wildlife species and their habitats in the Sacramento-San Joaquin Delta in a way that will also protect and restore water supplies. The Bay Delta Conservation Plan is guided by a steering committee of local water agencies, environmental and conservation organizations, state and federal agencies, and other interest groups.

The **Bay Delta Conservation Plan (BDCP) Steering Committee** is preparing a Draft Habitat Conservation Plan (HCP) and Natural Communities Conservation Plan (NCCP) for the Sacramento / San-Joaquin Delta (Delta), expected to be available for public comment by the end of 2010. When completed, the BDCP will provide the basis for the issuance of Endangered Species Act (ESA) authorizations for the operation of the state and federal water projects. The Plan is designed to provide for the conservation of sensitive species and their habitat in a way that will protect and restore water supplies.

Separately, a detailed analysis of impacts to water quality and other important aspects of the human environment will be conducted through the preparation of an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The EIR/EIS will analyze BDCP-proposed actions and alternatives to those actions, including alternative water conveyance options.

The issues and concerns identified currently include, but are not limited to:

- existing land uses such as agriculture and ag-based economies
- recreational activities and recreation-based economies
- property tax, in lieu fees and user fee revenues of local jurisdictions
- potential regulatory effects on adjacent property owners
- the compatibility of the plan with flood control plans
- the effects on existing irrigation and drainage infrastructure
- existing water rights
- effects on existing wastewater treatment operations of local jurisdictions
- local control over local land use

The mission of the **Delta Protection Commission (DPC)** is to guide the protection of the Sacramento-San Joaquin Delta's unique agricultural values, natural quality, cultural viability, economic vitality, and recreational opportunity through:

- Protection, maintenance, and enhancement and restoration of the overall quality of the Delta environment including agriculture, wildlife habitat, and recreational activities:
- Findings, goals, policies and recommendations in the areas of land use, agriculture, natural resources, recreation and access (including marine patrol, boater education and safety programs), water, levees, utilities and infrastructure; and
- Assurance of orderly, balanced conservation and development of Delta land resources.

The DPC operates under the regulatory authority of the 1992 Delta Protection Act, which established the boundaries of the Primary Zone of the Delta.

### Why is the Delta Important?

The Delta is home to half a million people and many historic communities. It is a key recreation destination and supports extensive infrastructure of statewide importance. Fresh water that reaches the Delta is the core of California's water system, which provides 25 million people throughout the Bay Area, the Central Valley, and southern California with a portion of their water supplies. Delta-conveyed water supports farms and ranches from the north Delta to the Mexican border. These agricultural resources are a major economic driver for the state, producing roughly half of the nation's domestically grown fresh produce. The Delta – the largest estuary on the West Coast – is also a vitally important ecosystem that is home to hundreds of aquatic and terrestrial species, many of which are unique to the area and several of which are threatened or endangered.

### Legislative Package Adopted in November 2009

In November 2009, the California Legislature passed and Governor Schwarzenegger signed a comprehensive water package that included four policy bills and an \$11.14 billion bond measure. Senate Bill X7-1 (SB 1) by Senators Simitian and Steinberg establishes the framework to achieve the co-equal goals of providing a more reliable water supply to California and restoring and enhancing the Delta ecosystem. Specifically, this Bill creates the Delta Stewardship Council, ensures that the Department of Fish and Game and the State Water Resources Control Board identify the water supply needs of the Delta estuary, establishes the Sacramento-San Joaquin Delta Conservancy, restructures the DPC, and appropriates funding from Proposition 84 for the Two-Gates Fish Protection Demonstration Program.

This legislation – comprised of four policy bills and a funding program – establishes a governance structure for the San Joaquin-Sacramento River Delta (the "Delta"), sets ambitious water conservation policy, requires groundwater monitoring, provides funds for increased enforcement of illegal water diversions, and provides for an \$11.14 billion bond measure to fund many of these projects and programs. This sweeping legislative package has the potential of achieving significant reforms in water supply management and restoration of the Delta.

Although the condition of the Delta estuary and restrictions on water deliveries from the Delta were perhaps the primary drivers in forging the bipartisan compromise, the legislation is not limited to the Delta. The legislation will have a profound impact on the reliability and quality of water supplies, land use and planning, and natural resource protections within the jurisdiction of every public agency, regardless of whether they are water suppliers.

### Senate Bill 1 – Primary Zone Boundaries

SB 1 directs the newly reconstituted DPC to prepare and submit to the Legislature, on or before July 1, 2010, recommendations regarding the potential expansion of or change to the Primary Zone or the Delta. The DPC is directed by SB 1 to consider recommendations on the status of all of the following areas: Rio Vista, Isleton, Bethel

Island, Brannan-Andrus Island, Cosumnes/Mokelumne floodway, and the San Joaquin/South Delta lowlands.

The Act requires the DPC to prepare and adopt, and thereafter review and maintain, a comprehensive long-term resource management plan for land uses within the Primary Zone of the Delta. The Land Use and Resource Management Plan (RMP), originally adopted on February 23, 1995, outlined long-term land use requirements for the Sacramento-San Joaquin Delta.

The Act calls for local governments with lands in the primary zone to ensure their General Plans are consistent with the RMP:

*Within 180 days from the date of the adoption of the resources management plan or any amendments, changes, or updates, to the resources management plan by the commission, each local government shall submit to the commission proposed amendments to its general plan that are intended to make the general plan consistent with the resources management plan with respect to land located within the primary zone.*

As shown in Attachment 1 – no portion of the City of Sacramento is within the Primary Zone. However, the DPC has issued a Request for Proposal (Bid Log Number 2009-10) “Sacramento-San Joaquin Delta Primary Zone Study” for consultant assistance in the development of recommendations regarding the potential expansion of or change to the Primary Zone or the Delta.

### **Senate Bill 2 – An \$11.14 Billion Bond Measure**

The funding mechanism for many of the projects and programs contemplated by the water legislation is set forth in Senate Bill No. 2X7 (2009-2010 7th Ex. Sess.) (“SB2”). SB2 provides for a ballot measure that, if approved by the voters in the November 2, 2010 statewide general election, will authorize the issuance of \$11.14 billion in bonds. A portion of the funding is dedicated to each primary watershed throughout California, and all regions will be able to compete for grants and loans to help finance water management projects and programs with local, regional and statewide benefits. [Note: Governor Schwarzenegger is now recommending postponing this ballot measure.]

### **Senate Bill 6 – Groundwater Monitoring Programs**

SB 6 addresses the problems posed by “overdraft” of groundwater supplies – that is, declining groundwater levels that never fully recover, even in wet years. Overdraft can lead to increased extraction costs, land subsidence, water quality degradation, and environmental impacts.

In keeping with the goal of establishing an integrated, reliable, and secure water supply system, Senate Bill No. 6X7 (2009-2010 7th Ex. Sess.) (“SB6”) establishes, for the first time in California, a statewide framework for systematic groundwater monitoring and reporting programs intended to protect water quality and prevent basin overdraft. Beginning in 2012, local groundwater management entities will be required to monitor the elevation of their groundwater basins and report this information to the DWR. Although the bill does not invest DWR with any authority to reduce or control groundwater pumping, DWR now will have continuing oversight of the condition of the state’s aquifers.

**Senate Bill 7 – Mandatory Water Conservation**

Because the mounting adverse impacts on the Delta ecosystem, climate change and a growing population all continue to place greater stress on California's limited water supplies, the fourth bill in the water legislation package mandates water conservation measures. Senate Bill 7X7 (2009-2010 7th Executive Session) ("SB7") proposes to protect water supplies by mandating a statewide 20 percent reduction in urban per capita water use by 2020. The state is required to make incremental progress toward achieving this goal by reducing per capita water use by at least 10 percent by 2015. Both urban water suppliers and agricultural water suppliers are required to develop plans for reducing water use.

Urban retail water suppliers must report their interim and overall water use targets in their Urban Water Management Plan ("UWMP") due July 1, 2011, and must report their progress toward reaching their targets in their 2015 UWMP.

Water for urban landscaping comprises approximately one-third of urban water use, or three million acre feet of water annually. Availability of water is essential to the continued growth and development of our communities. Cities and urbanizing counties can update, implement, and enforce water-efficient landscape ordinances and other water conservation measures in effect in their respective jurisdictions.

**Senate Bill 8 – Water diversion and reporting**

SB8 takes on the issue of water diversion – providing stricter regulation of who gets to take water and how much they get to take. With certain exceptions, existing law has required diverters of water to file a statement of diversion or use with the State Water Resources Control Board. SB8 provides stricter water diversion reporting requirements, revises the types of water diversions exempt from reporting, and redefines the exemption criteria for diverters. As a result, many previously exempted diverters will now be required to file water diversion and use statements. The new law also strengthens the reporting requirements by establishing civil penalties for failure to file an annual diversion or use statement for a diversion or use, tampering with any measuring device, or making a material misstatement in connection with the filing of a diversion or use statement.

According to the legislative findings for SB8, there are an estimated 1,800 agricultural, municipal, and industrial diversions in the Delta that, combined, divert 5 percent of the freshwater flows from the Delta watershed. Because none of these in-Delta diverters are required to measure and report their water diversion and use, there presently is no data regarding the nature, extent and location of these diversions. The new law will address these issues in the Delta and throughout the state. Additionally, the increased data from the reporting requirements will provide greater enforcement and assist in developing more reliable watershed planning.

For further information: <http://baydeltaconservationplan.com>  
<http://www.delta.ca.gov/> (Delta Protection Commission)

**Environmental Considerations:** This information item is not subject to CEQA because there are no discretionary actions before the Commission.

**Policy Considerations:** The Sacramento 2030 General Plan identifies Goal ER 1.1: Water Quality Protection. Protect local watersheds, water bodies and groundwater resources, including creeks, reservoirs, the Sacramento and American rivers, and their shorelines.

Policy ER 1.1.1 Conservation of Open Space Areas. The City shall conserve and where feasible create or restore areas that provide important water quality benefits such as riparian corridors, buffer zones, wetlands, undeveloped open space areas, levees, and drainage canals for the purpose of protecting water resources in the City's watershed, creeks, and the Sacramento and American rivers. (RDR/MPSP)

Policy ER 1.1.2 Regional Planning. The City shall continue to work with local, State, and Federal agencies and private watershed organizations to improve water quality. (IGC/JP)

Policy U 2.1.1 Exercise and Protect Water Rights. The City shall exercise and protect its water rights and entitlements in perpetuity. (SO)

Respectfully submitted by:

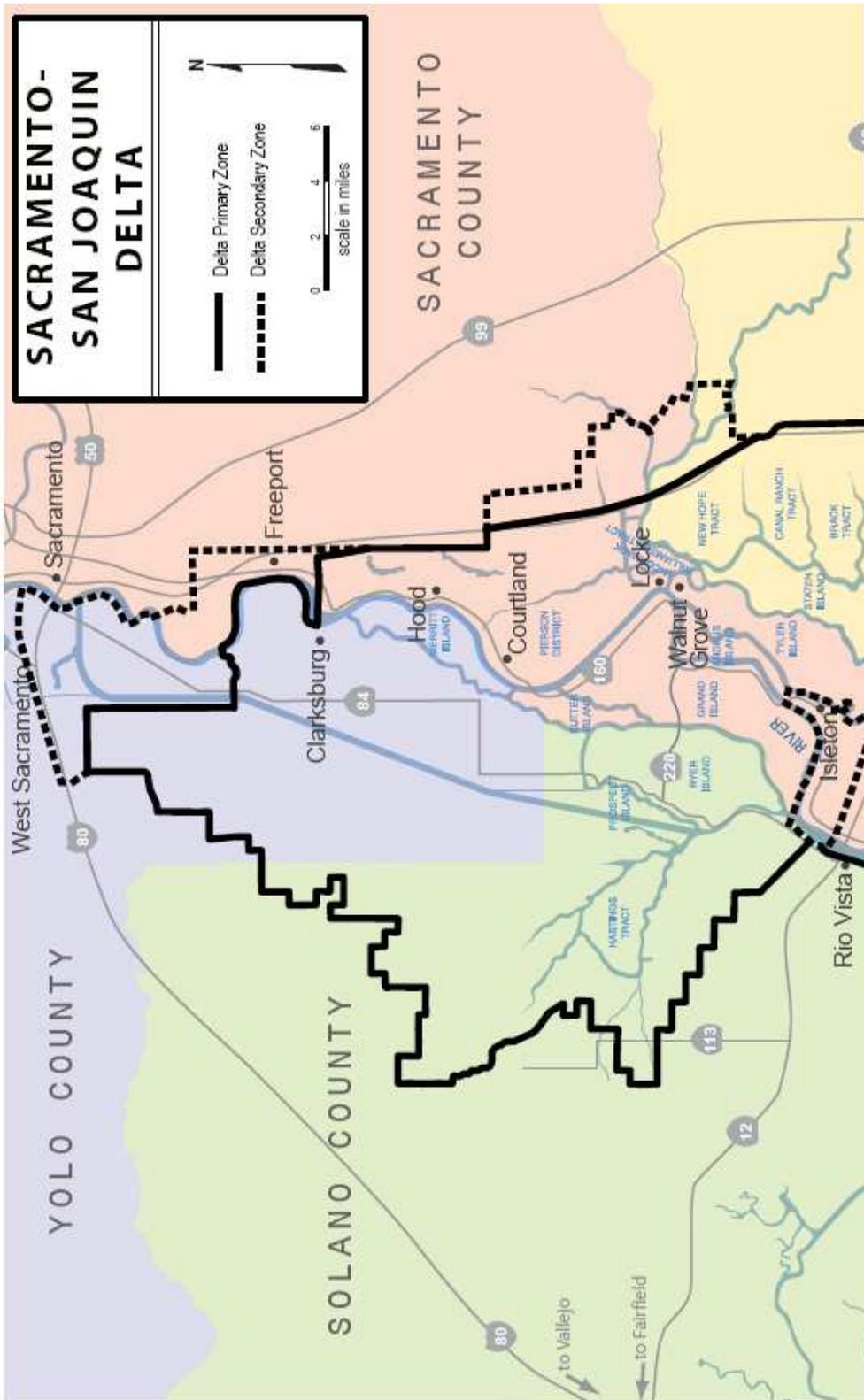


SCOT MENDE, AICP  
Principal Planner, New Growth & Infill

**Attachments**

1	Delta – Delineation of Primary & Secondary Zones	pg	8
2	“Historic Water Legislation: New Opportunities, Challenges for Public Agencies” published in Public Law Journal, Volume 33, No. 2, Spring 2010.	pg	9
3	BDCP Status Update 3 June 2010	pg	13
4	SF Chronicle Article – June 27, 2010	pg	20

Attachment 1  
DELTA – DELINEATION OF PRIMARY & SECONDARY ZONES



# JOURNAL

## PUBLIC LAW

# Journal

An Official Publication of the State Bar of California Public Law Section

## Student Writing Competition Winner Announced!

See details page 21

### MCLE SELF-STUDY

# Historic Water Legislation: New Opportunities, Challenges for Public Agencies

By Kelly J. Salt and Stefanie Hedlund\*

An integrated, reliable, and secure water supply system is essential to sustaining the economy and providing for continued growth and development in California, but for decades, Californians have failed to address the mounting crisis of the state's water supply and conveyance system. In November 2009, however, a bipartisan package of five bills emerged from the state legislature's 2009 Extraordinary Session to address California's mounting water crisis. The bills passed in November 2009 and took effect January 1, 2010.

This legislation – comprised of four policy bills and a funding program – establishes a governance structure for the San Joaquin-Sacramento River Delta (the "Delta"), sets ambitious water conservation policy, requires groundwater monitoring, provides funds for increased enforcement of illegal water diversions, and provides for an \$11.14 billion bond measure to fund many of these projects and programs. This sweeping legislative package has the potential of achieving significant reforms in water supply management and restoration of the Delta.

Although the condition of the Delta estuary and restrictions on water deliveries from

the Delta were perhaps the primary drivers in forging the bipartisan compromise, the legislation is not limited to the Delta. The legislation will have a profound impact on the reliability and quality of water supplies, land use and planning, and natural resource protections within the jurisdiction of every public agency, regardless of whether they are water suppliers. This article provides a summary of the legislation and its potential impacts on public agencies.

### CALIFORNIA'S WATER HISTORY

The state's first opportunity to provide a more reliable water supply was presented in 1982 when California voters were asked to approve an initiative to build a peripheral canal. The peripheral canal proposed to divert water from the Sacramento River, through (or around the periphery of) the Delta. The Delta – the hub of California's public water supply system, providing two-thirds of California's water – is a labyrinth of more than 1,000 earthen levees, meandering sloughs, sunken islands, wetlands, and channels that flush water from the Sacramento River to giant pumps in the south Delta. The Delta is also a fragile ecosystem and a critical habitat for fish and wildlife species.

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The peripheral canal was proposed to remedy the adverse effects on fisheries caused by diversions from the Delta and to provide a more reliable state water supply system.<sup>1</sup> In what proved to be a contentious North versus South campaign, the voters rejected the ballot measure. In the decades that followed, California's population continued to grow exponentially,<sup>2</sup> placing even greater demands on the Delta and a conveyance system that was designed to serve a much smaller population. The frailty of the Delta and California's water supply system has been highlighted by recent events, including a multi-year drought, adverse impacts to the Delta ecosystem, declining fish populations, court-imposed restrictions on water deliveries, earthquakes, and risks posed by climate change, including less snowpack, higher flood peaks, rising sea levels, and levee failures.



Photo of the Delta provided courtesy of the California Department of Water Resources

## THE NEW WATER LEGISLATION

### A. SENATE BILL 1 - DELTA GOVERNANCE

The first piece of the legislation package, Senate Bill 1X7 (2009-2010 7th Ex. Sess.) ("SB1X7"), concerns land use within and governance over the Delta and proposes the most extensive changes to the current water supply system.

SB1X7 creates a Delta governance structure that provides a framework for public agencies to work under one comprehensive plan to achieve the co-equal goals of both providing a more reliable water supply and protecting, restoring and enhancing the Delta's ecosystem. This policy statement is significant because it does not recognize a priority under the law for either protection of the Delta ecosystem or providing a sustainable and reliable water supply for the state, but recognizes both goals as equal in importance.

The co-equal goals are embodied in the authorities granted to each of the governing entities – the new Delta Stewardship Council (the "Council"), a modified Delta Protection Commission (the "Commission"),<sup>3</sup> a Delta Watermaster (the "Watermaster"),<sup>4</sup> a new Sacramento-San Joaquin Delta Conservancy (the "Conservancy"),<sup>5</sup> and a new Delta

Independent Science Board (the "Science Board").<sup>6</sup>

### The Delta Plan – protecting the water supply and the ecosystem

The Delta Stewardship Council, which succeeds the CALFED Bay-Delta Authority, is the most significant player in terms of the impact of its decisions on public agencies because the Council will make decisions that will impact future land use and planning throughout the state. The Council is tasked with developing and implementing a regional land use plan for the Delta (the "Delta Plan") that will guide state and local land use decisions in the Delta to further the co-equal goals of maintaining a sustainable water supply and protecting the Delta ecosystem. Additionally, the Council must develop performance measures for the assessment and tracking of progress and changes to the health of the Delta ecosystem, fisheries, and water supply reliability. These measures ultimately may impact future Delta water delivery decisions until an alternative conveyance system through or around the Delta is identified and constructed.

The Delta Plan is the keystone to reforming and rebuilding California's water supply system and restoring the Delta.<sup>7</sup> The plan is required to promote options for new and improved infrastructure relating to water conveyance in the Delta, storage systems, and operation of both to achieve the co-equal goals. Notably, the Delta Plan must include options for constructing a canal to convey water around or through the Delta, but funding for construction of such a canal is not provided for in the legislation. Rather, the legislation contemplates a user-pays principle by which users of the State Water Project ("SWP") and Central Valley Project ("CVP") will be financially responsible for the design and construction of the canal.<sup>8</sup> The Department of Water Resources ("DWR") estimates construction of a canal around the Delta will cost as much as \$9 billion, while an underground pipeline could cost as much as \$11.7 billion. The selected project undoubtedly will have a significant impact on the water rates and charges imposed by every public agency that receives water from the SWP or CVP.

The Delta Plan also will attempt to reduce the risks of flooding in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments. Increased flooding could potentially cause more harm to the intricate Delta levee system, and levee failures can impact water flows within the Delta, resulting in increased salinity and degradation of drinking and agricultural water quality. The Delta Plan is therefore essential to protecting the quality of the state's water supplies.

After adoption of the Delta Plan, the

regional and local planning efforts of public agencies located in the Delta will be directly impacted by the Delta Stewardship Council. Certain local land use projects planned for the Primary and Secondary Zones of the Delta are subject to review by the Council for consistency with the Delta Plan, with a few exceptions.<sup>9</sup> Public agencies that propose to undertake covered actions within the Delta must submit a written certification of consistency – providing detailed findings confirming that the action is consistent with the Delta Plan – to the Council. If a party challenges the proposed action's certification of consistency, the Council will act as an appellate body and may remand the matter back to the state or local agency for reconsideration if the Council finds the certification to be unsupported by substantial evidence.<sup>10</sup>

The Council also has discretion to determine whether or not a public agency's regional planning documents are consistent with the directives of the Delta Plan and the ecosystem restoration needs of the Delta.<sup>11</sup> Because the Council is charged with developing the regulations by which it will govern and exercise its authority in and around the Delta,<sup>12</sup> a public agency that may be subject to the land use review and authority of the Council should be engaged with the Council as it develops these regulations. The Council's land use authority also may extend to projects outside of the Delta if the Council determines the project has a significant impact on the Delta. Consequently, any public agency near, or receiving water directly from or directly discharging water into the Delta, should participate in the process of helping to define when a project has a "significant impact" on the Delta.

The Council's land-use regulations, consistency review process, and appeal procedures may significantly impact the ability of projects to expeditiously move forward within the Delta. Moreover, opponents of projects likely will use the consistency review and appeal processes as a means of delaying projects.<sup>13</sup> In addition to these regional impacts, the Delta Plan will affect land use and entitlements, and water supply planning and funding throughout the state. Until an alternative conveyance system around the Delta is determined and constructed, project proponents, lead agencies, and water supply agencies will need to consider what findings will need to be made regarding water availability for proposed projects, and what implications the Delta Plan has on California Environmental Quality Act ("CEQA") analyses, Urban Water Management Plans, Water Supply Assessments, and Written Verifications.

### B. SENATE BILL 2 - AN \$11.14 BILLION BOND MEASURE

The funding mechanism for many of the projects and programs contemplated by the water legislation is set forth in Senate Bill No. 2X7 (2009-2010 7th Ex. Sess.) ("SB2").

SB2 provides for a ballot measure that, if approved by the voters in the November 2, 2010 statewide general election, will authorize the issuance of \$11.14 billion in bonds.<sup>14</sup> A portion of the funding is dedicated to each primary watershed throughout California,<sup>15</sup> and all regions will be able to compete for grants and loans to help finance water management projects and programs with local, regional and statewide benefits.<sup>16</sup>

State and regional budget shortfalls and a tightened credit market have delayed new projects and programs critical to resolving the state water crisis, and the bond measure is intended to provide the funds to advance these projects. But, with state general fund revenues already significantly constrained, the legislature will have to address the financial implications that issuing \$11.14 billion in bonds will have on the state budget or find alternative revenue sources to pay the debt service.<sup>17</sup> Local agencies and water suppliers are the most likely sources for alternative revenues.

This ambitious bond measure seeks to address decades of neglect for California's water infrastructure, and therefore is generally perceived to be a critical component to a long-term solution to the Delta and local water supply reliability. The bond funding will create significant opportunities for public agencies and a possible economic stimulus to California's economy. The open question, however, is whether California voters will approve the bond measure or again take a North versus South approach to water supply issues. Although voter authorization for the bond measure is not a prerequisite to implementation of other provisions of the water legislation, failure of the bond measure will significantly jeopardize their financial viability.

### C. SENATE BILL 6 – GROUNDWATER MONITORING PROGRAMS

The third bill in the water legislation package addresses the problems posed by “overdraft” of groundwater supplies – that is, declining groundwater levels that never fully recover, even in wet years. Overdraft can lead to increased extraction costs, land subsidence, water quality degradation, and environmental impacts.

In keeping with the goal of establishing an integrated, reliable, and secure water supply system, Senate Bill No. 6X7 (2009-2010 7th Ex. Sess.) (“SB6”) establishes, for the first time in California, a statewide framework for systematic groundwater monitoring and reporting programs intended to protect water quality and prevent basin overdraft. Beginning in 2012, local groundwater management entities will be required to monitor the elevation of their groundwater basins and report this information to the DWR.<sup>18</sup> Although the bill does not invest DWR with any authority to reduce or control groundwater pumping, the department

now will have continuing oversight of the condition of the state's aquifers.<sup>19</sup>

SB6 allows local groundwater entities to regionally manage their groundwater monitoring and reporting programs. Only certain qualified entities can assume these functions, and each entity must submit written notification, including a map of the area to be monitored, to DWR by January 1, 2011.<sup>20</sup> By January 1, 2012, DWR must begin identifying the extent of groundwater elevation monitoring, and prioritize the monitoring.<sup>21</sup>

If qualified local entities fail to implement monitoring programs, or fail to provide DWR with the required reports, DWR itself may implement the groundwater monitoring program for that particular basin.<sup>22</sup> When this occurs, DWR may determine that a county or other entity that should have assumed monitoring responsibility, but did not, is ineligible for water grants or loans awarded or administered by the state. Essentially, this is the legislation's only effective enforcement tool.<sup>23</sup>

For regions that rely heavily on groundwater as their water supply, this legislation is a significant step in protecting water quality and safeguarding local water supply. Because the entitlement and development review process must consider the availability of water for a project, the data obtained from a groundwater monitoring and reporting program likely will play a significant role in the preparation of CEQA analyses, Urban Water Management Plans, Water Supply Assessments, and Written Verifications prepared by many local agencies.

### D. SENATE BILL 7 – MANDATORY WATER CONSERVATION

Because the mounting adverse impacts on the Delta ecosystem, climate change and a growing population all continue to place greater stress on California's limited water supplies, the fourth bill in the water legislation package mandates water conservation measures.

Senate Bill 7X7 (2009-2010 7th Ex. Sess.) (“SB7”) proposes to protect water supplies by mandating a statewide 20 percent reduction in urban per capita water use by 2020. The state is required to make incremental progress toward achieving this goal by reducing per capita water use by at least 10 percent by 2015. Both urban water suppliers and agricultural water suppliers are required to develop plans for reducing water use.

Urban water suppliers will have to develop long-term strategies for developing water conservation and water resource management programs and practices that will be sufficient to reach their interim and overall water use targets. Similarly, agricultural water suppliers will have to develop and implement efficient water management programs and practices in order to comply with the new requirements of this legislation. These changes may ultimately

have an impact on agricultural practices and uses of agricultural land throughout California.

### Cutting Urban Water Use – 10 percent by 2015, 20 percent by 2020

SB7 requires urban retail water suppliers to formulate water demand reduction targets and to reduce per capita water<sup>24</sup> use within their service area by 10 percent by 2015 and by 20 percent by 2020.<sup>25</sup> Urban retail water suppliers must report their interim and overall water use targets in their Urban Water Management Plan (“UWMP”) due July 1, 2011, and must report their progress toward reaching their targets in their 2015 UWMP.<sup>26</sup>

SB7 provides four options for urban retail water suppliers to set their individual water use targets: (1) establish a conservation target of 80 percent of the agency's current baseline daily per capita water use; (2) utilize performance standards for water use that are specific to indoor, landscape, and commercial, industrial and institutional uses; (3) meet the per capita water use goal for the agency's specific hydrologic region as identified by DWR and other state agencies in the state's draft 20x2020 Water Conservation Plan (dated April 30, 2009); or (4) adopt an alternative method that will be identified and developed by DWR by no later than December 31, 2010. Urban water suppliers are expected to rely most heavily on the first option, using their current baseline daily per capita water use to measure whether they achieve a 20 percent reduction in use by December 31, 2020.<sup>27</sup>

In developing the fourth option's alternative method of setting water use targets, the DWR must consider climatic and population density differences; provide flexibility to communities and regions; consider different levels of per capita water use according to plant water needs; consider different levels of commercial, industrial and institutional water use in different regions of the state; and avoid any undue hardship that reductions will place on communities that already have implemented conservation measures or taken actions to keep per capita water use low.<sup>28</sup> The Association of California Water Agencies already has proposed its own “option 4” alternative method of setting water use targets, which it outlined in a white paper sent to DWR on April 29, 2010.<sup>29</sup>

An urban retail water supplier must include in its UWMP its base daily per capita water use,<sup>30</sup> interim urban water use target,<sup>31</sup> urban water use target,<sup>32</sup> and compliance daily per capita water use<sup>33</sup> – and the bases for determining each of these estimates to achieve its required water use reductions. DWR is required to establish technical criteria and methodologies for calculating each of the four measures by October 1, 2010.<sup>34</sup> Notwithstanding these requirements, a retail urban water supplier may update its 2020 urban water use target in its 2015 UWMP.

**Agricultural Water Suppliers – improving water efficiency by 2012**

Agricultural water suppliers also are required to assist in meeting the statewide 20x2020 goal by implementing water efficient management practices on or before July 31, 2012.<sup>35</sup> These practices include measuring water deliveries and adopting pricing structures for water customers based at least in part on the quantity of water delivered. Additionally, agricultural water suppliers must implement other measures to improve water use efficiency where technically and economically feasible.<sup>36</sup>

Significantly, for the first time, agricultural water suppliers will be required to develop agricultural water management plans that must include information about the water efficiency measures they have implemented and those that will be implemented in the future. These plans are due on or before December 31, 2012 and will require updates.<sup>37</sup>

**How Local Governments May Help**

The responsibility of conserving water, however, is not entirely placed on water suppliers. Cities, counties, and other local agencies will need to play a role in these efforts. Water for urban landscaping comprises approximately one-third of urban water use, or three million acre feet of water annually. Because the availability of water is essential to the continued growth and development of our communities, cities and counties that do not supply water within their jurisdictions should assist urban water suppliers in achieving their interim and overall water use targets by updating, implementing, and enforcing the water-efficient landscape ordinances and other water conservation measures in effect in their respective jurisdictions.<sup>38</sup>

SB7 underscores the critical link between water supply and land use planning. Perhaps now more than ever, urban and agricultural water management plans will serve as the backbone of regional, sub-regional, and local water supply planning to ensure that adequate water supplies are available to serve existing and future demands. As the focus on this process increases, the challenges increase even more.

In addition to the new water conservation and resource management requirements imposed under SB7, the factors previously identified – a continuing drought, adverse impacts to the Delta ecosystem, declining fish populations, court-imposed restrictions on water deliveries, and risks posed by climate change – will continue to affect the availability and reliability of imported and local water supplies. Hence, beyond achieving extraordinary conservation, agencies must commit to diversifying and maximizing the use, re-use, and management of local resources, particularly recycled water.

Increasing demands for water will continue to play an important, if not predominant, role

in the preparation of urban and agricultural water management plans. Accordingly, growth and demand forecasts should be evaluated early on in the planning process and closely coordinated with similar analyses undertaken by cities, counties and regional and local agencies as part of their general planning, housing and infrastructure, sustainable community, and related processes.

Moreover, urban and agricultural water management plans are subject to direct legal challenge against the adopting agency. Previous court cases have shown that an urban water management plan can be invalidated for an agency's failure to adequately describe all factors covering all aspects of providing water service – factors that include water rights, environmental issues, legal and regulatory constraints, demand management and conservation, alternative water supplies, implementation measures and obstacles, infrastructure and transmission facilities, financing, and more. In an era when land use decisions are often tied closely to the information, analyses and conclusions set forth in an urban water management plan, the importance of this process becomes even more apparent to all public agencies.

Water supply agencies also will have to consider, forecast and plan for the impact that the interim and overall water use targets will have on their revenues. As has been demonstrated during the most recent drought, with water conservation comes reduced revenues. Moreover, as the cost to produce and purchase water continues to increase, California will continue to feel the economic effects of maintaining a sufficient water supply system.

**E. SENATE BILL 8 – WATER DIVERSION AND REPORTING**

The last bill included in this historic water package is Senate Bill No. 8X7 (2009-2010 7th Ex. Sess.) (“SB8”). SB8 takes on the issue of water diversion – providing stricter regulation of who gets to take water and how much they get to take.

With certain exceptions, existing law has required diverters<sup>39</sup> of water to file a statement of diversion or use with the State Water Resources Control Board. SB8 provides stricter water diversion reporting requirements, revises the types of water diversions exempt from reporting, and redefines the exemption criteria for diverters. As a result, many previously exempted diverters will now be required to file water diversion and use statements. The new law also strengthens the reporting requirements by establishing civil penalties for failure to file an annual diversion or use statement for a diversion or use, tampering with any measuring device, or making a material misstatement in connection with the filing of a diversion or use statement.

According to the legislative findings for SB8, there are an estimated 1,800 agricultural, municipal, and industrial diversions in the

Delta that, combined, divert 5 percent of the freshwater flows from the Delta watershed. Because none of these in-Delta diverters are required to measure and report their water diversion and use, there presently is no data regarding the nature, extent and location of these diversions. The new law will address these issues in the Delta and throughout the state. Additionally, the increased data from the reporting requirements will provide greater enforcement and assist in developing more reliable watershed planning.

**CONCLUSION**

Water is critical to the future of our local and state economies and the quality of life of all Californians. Without careful management, water-related issues may limit what California can accomplish – without a reliable water supply, sustained economic growth, business vitality, and agricultural productivity within California will be severely limited. The aggressive package of legislation that took effect in January 2010 establishes a framework to help achieve a reliable water supply system, improve water quality, and restore and enhance the Delta ecosystem.

Public agencies will be directly impacted by the success or the failure of this legislation and will play a role in its implementation. And in November, California voters will play the most important role in determining the success of these programs and projects, by deciding whether to approve or vote down the bond measure that provides the necessary funding for the projects. Whether voters choose to participate in making this historic legislation a success is yet to be determined.



\* Kelly Salt is Of Counsel in the Public Finance Practice Group of Best Best & Krieger LLP, San Diego Office. Since joining the firm in 2006, she has served as bond and disclosure counsel to public agencies throughout California for the financing of major public infrastructure and improvement projects. In addition to her bond and municipal finance work, Ms. Salt's practice areas include drought management and water conservation programs, and rate setting and compliance with Proposition 218.



Stefanie Hedlund is an Environmental and Natural Resources associate in the firm's Sacramento office. Ms. Hedlund represents public and private clients in all matters involving water issues.

# BDCP

## BAY DELTA CONSERVATION PLAN

A PLAN TO RESTORE THE DELTA'S ECOSYSTEM AND CALIFORNIA'S WATER SUPPLIES

### WHAT IS NEW WITH THE BDCP?

The Bay Delta Conservation Plan (BDCP) Steering Committee is preparing a Draft Habitat Conservation Plan (HCP) and Natural Communities Conservation Plan (NCCP) for the Sacramento San-Joaquin Delta (Delta), expected to be available for public comment by the end of 2010. The Plan is designed to provide for the conservation of sensitive species and their habitat in a way that will protect and restore water supplies.

#### PRELIMINARY DETAILS:

##### ▶ **Habitat Restoration & Other Stressors**

- Habitat restoration targets (up to 80,000 acres) for aquatic species
- Preserve and enhance approximately 45,000 acres of habitat for the needs of plant & wildlife species
- Refined list of measures to address water quality and other stressors on aquatic species

##### ▶ **New Water Conveyance Facilities**

- Up to five intakes along the Sacramento River from Freeport to Courtland
- Additional study of two underground 33-foot-diameter tunnels/pipelines designed for a combined capacity of up to 15,000 cubic feet per second (cfs). In addition, an above-ground canal is being considered as a conveyance option.

##### ▶ **Flow Criteria (Operations Rules)**

A range of potential new diversion rules for new North Delta water facilities in combination with continued operation of existing South Delta facilities (dual conveyance) and other key flow rules.

### WHAT ARE THE NEXT STEPS TO COMPLETE THE DRAFT PLAN?

In the coming months, the Steering Committee will address other important elements that need to be completed prior to the release of the Draft Plan, such as identifying terrestrial communities and species conservation measures, developing the adaptive management plan and implementation schedule, verifying covered activities, identifying funding mechanisms, refining biological goals, developing a governance structure, and further developing conservation measures.

Separately, a detailed analysis of impacts to water quality and other important aspects of the human environment will be conducted through the preparation of an Environmental Impact Report/Environmental Impact Statement (EIR/EIS) under the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA). The EIR/EIS will analyze BDCP-proposed actions and alternatives to those actions, including alternative water conveyance options.

# WHAT IS IN THE DRAFT CONSERVATION STRATEGY?

Below is an overview of the most recent draft conservation strategy measures:

Habitat Restoration Targets	Water Facilities Rules	Actions to Limit Other Stressors
<ul style="list-style-type: none"> <li>Restore up to 65,000 acres of freshwater and brackish tidal habitat within restoration opportunity areas.</li> <li>Restore 5,000 acres of riparian forest and scrub in restoration opportunity areas.</li> <li>Enhance channel banks along 20 to 40 linear miles with more natural riverbank features, such as overhanging shade, instream woody debris, and shallow benches.</li> <li>Restore 10,000 acres of seasonally inundated floodplain.</li> <li>Increase the frequency and duration of Yolo Bypass inundation via the modification of the Fremont or Sacramento Weirs to improve fish migration, food production, and spawning and rearing habitat.</li> <li>Preserve and enhance approximately 45,000 acres of terrestrial habitat. This target acreage is above and beyond the 75,000 acres of tidal marsh and riparian restoration in support of aquatic and terrestrial species. These targets can take place anywhere within the planning area where species may be present.</li> </ul>	<p><b>North Delta Diversion and Bypass Flows ①*</b></p> <ul style="list-style-type: none"> <li>Construct diversion facilities to support flexibility in flow management, with a preliminary design capacity of up to 15,000 cfs, which is similar to existing south Delta facilities.</li> <li>Establish minimum river flows to ensure that Sacramento River flows are always greater than export diversions and that flows support the habitat needs of covered fish and the ecological needs of the Delta as a whole.</li> </ul> <p><b>South Delta Channel Flows ②*</b></p> <ul style="list-style-type: none"> <li>Minimize incidence and magnitude of reverse flow to acceptable levels during times of year most important to fish, and also to reduce entrainment.</li> </ul> <p><b>Outflow ③*</b></p> <ul style="list-style-type: none"> <li>Provide freshwater outflow necessary to maintain a desirable salinity regime and for fish health and survival.</li> </ul> <p><b>Water Quality</b></p> <ul style="list-style-type: none"> <li>Maintain water quality standards set forth by the State Water Resources Control Board and other standards for quality throughout the Delta.</li> </ul> <p><b>Other Controls</b></p> <ul style="list-style-type: none"> <li>Set new operating rules to better manage inflows, better manage flows through the Delta Cross Channel, and better manage flows at Rio Vista.</li> </ul>	<ul style="list-style-type: none"> <li>Minimize methyl mercury generation from restoration sites</li> <li>Control non-native aquatic plants that support predator habitat</li> <li>Reduce illegal harvest of Chinook salmon, Central Valley steelhead, green sturgeon, and white sturgeon</li> <li>Establish hatchery and genetic management plans</li> <li>Support Delta and longfin smelt propagation programs</li> <li>Reduce predators in high predator density locations</li> <li>Construct non-physical barriers to redirect outmigrating juvenile salmonids (e.g., bubbles, light, and sound barriers)</li> <li>Improve dissolved oxygen levels in the Stockton Deep Water Ship Channel</li> </ul>

\*Numbers refer to pull-out map.

For a complete description of the proposed conservation measures, visit <http://baydeltaconservationplan.com/BDCPPages/BDCPInfoCurrentDocs.aspx>

## WHAT NEW CONVEYANCE FACILITIES ARE CURRENTLY PROPOSED?

A focused analysis is underway on an underground tunnel/pipeline conveyance system for potential inclusion into the Draft Plan. While the current pumping capacity proposed allows for a maximum diversion of up to 15,000 cfs, the Steering Committee is evaluating criteria based on a range of facility sizes, operations, and anticipated costs. The decision to further analyze a tunnel/pipeline is based on best available, preliminary information including cost estimates of \$11.7 billion, as well as energy requirements, ongoing operations, maintenance needs, and anticipated environmental impacts at a 10 percent design stage. An above-ground canal is also being considered as a conveyance option. A decision on the proposed conveyance facility will be made after additional analysis has been completed.

In addition, five intake locations along the eastern bank of the Sacramento River between Freeport and Courtland are under consideration for the Draft Plan. Intake locations were identified, in part, to avoid and minimize impacts to important fish and wildlife species and their habitats, cultural and historical sites and housing, existing communities, and planned future land uses.

Under the current proposal, the conceptual tunnel/pipeline conveyance system would include:

- ▶ Up to 5 intakes, each at 3,000 cfs
- ▶ 6 pump stations
- ▶ 36 miles of tunnel (2 bores, 33 feet inside diameter)
- ▶ One 620-acre forebay near the existing Clifton Court Forebay
- ▶ One 750-acre forebay near Courtland

## HOW WILL BDCP WATER OPERATIONS RULES HELP RECOVER FISH AND THEIR HABITAT?

Separating California's water supply system from the fragile Delta estuary provides the ability to restore critical ecosystem functions – such as spawning and rearing habitat, production of food for fish, and fish migration patterns – throughout the Delta that are essential for species recovery. The Plan intends to restore these functions by:

- ▶ Establishing water flow rules that mimic natural seasonal flows in the estuary.
- ▶ Steering fish away from the existing state and federal water pumps.
- ▶ Restoring habitat areas throughout the Delta to support the natural ecological processes that are found in a properly functioning estuary.

## HOW WILL WATER DIVERSIONS FROM THE SACRAMENTO RIVER BE DETERMINED?

The Plan will propose water operations criteria that will determine how much water could be diverted from the Sacramento River via a new water conveyance facility. Currently, a range of operations is being studied that will limit the amount of water available for diversion depending on the time of the year and real-time flows. For instance, from December through April the proposed rules would require a base flow of 9,000 to 15,000 cfs in the Sacramento River before any water could be diverted at a North Delta diversion. These rules will be put in place to support the BDCP's goals of fish recovery and the restoration of natural seasonal flows.

## WHAT IS THE ROLE OF SCIENCE IN DEVELOPING THE DRAFT CONSERVATION STRATEGY?

The BDCP Conservation Strategy is built upon and reflects the extensive body of scientific investigation, study, and analysis of the Delta. The BDCP Steering Committee also undertook a rigorous process to develop new and updated information, including an evaluation of conservation options using the CALFED Bay-Delta Ecosystem Restoration Program's Delta Regional Ecosystem Restoration Implementation Plan (DRERIP) evaluation process conducted by multiple teams of experts in early 2009. The BDCP Steering Committee sought and utilized independent scientific advice at several key stages of the planning process, enlisting well-recognized experts in ecological and biological sciences to produce recommendations on a range of relevant topics, including conservation planning for both aquatic and terrestrial species and to develop adaptive management and monitoring programs. Independent science input will continue as the plan is developed, and ongoing scientific input will be provided during plan implementation.

## WHAT ARE THE BENEFITS OF REGIONAL CONSERVATION PLANNING?

The combination of an HCP/NCCP is the best available tool to develop a comprehensive plan that will contribute to the recovery of sensitive species and their habitats in a way that will protect and restore water supply reliability. This conservation plan will:

- ▶ Allow operations of state and federal water projects to proceed with a comprehensive ecosystem-focused approach that provides for the conservation of affected species and habitats and meets the standards of the NCCP Act.
- ▶ Eliminate more costly, often less effective piecemeal project-by-project, species-by-species permitting
- ▶ Provide flexibility in addressing those issues that are most effective for promoting the conservation of covered species.
- ▶ Are based on the best available science.
- ▶ Provide reliable funding sources for ecosystem restoration.

## WHAT SPECIES WILL BE ADDRESSED BY THE BDCP?

“Covered Species” identified in the BDCP include both endangered or sensitive terrestrial and aquatic species whose conservation and management will be provided by the plan. The draft conservation strategy includes biological goals and objectives for approximately 50 sensitive wildlife and plant species, and also identifies conservation measures to help in their recovery. Species considered for coverage include:

- ▶ Delta smelt
- ▶ Longfin smelt
- ▶ Winter-run Chinook salmon
- ▶ Spring-run Chinook salmon
- ▶ Fall-run and late fall-run Chinook salmon
- ▶ Central Valley steelhead
- ▶ Green sturgeon
- ▶ White sturgeon
- ▶ Sacramento splittail
- ▶ River lamprey
- ▶ Pacific lamprey
- ▶ Approximately 50 terrestrial species (such as Giant garter snake, Swainson's hawk, and others)

Where feasible, BDCP conservation measures will be designed to complement other existing or planned terrestrial HCP/NCCPs in the Delta to enhance benefits to natural communities and species, and to support locally led conservation efforts and compatible existing land uses to the extent possible.



## HOW WILL LANDS FOR HABITAT RESTORATION BE IDENTIFIED?

The following is a partial list of site selection criteria that will be used, along with local input, to identify lands for habitat restoration and enhancement.

### FEASIBILITY

- ▶ Minimized effects on existing land uses
- ▶ Site availability
- ▶ Cost effectiveness in implementing restoration
- ▶ Potential effects on mosquito vector control

### BIOLOGICAL ATTRIBUTES

- ▶ Ability to achieve multiple biological objectives for multiple species
- ▶ Proximity to channel systems that could benefit from restoration (e.g., increased tidal marsh restoration may help reduce bi-directional flows in upstream channels, or support greater mixing in channels, both of which are beneficial for native fish)
- ▶ Capacity to contribute to more natural transitions between habitats in the Delta (seasonal wetland, riparian, grassland)
- ▶ Proximity to existing habitats so that new restoration adds to and develops habitat corridors for fish and wildlife
- ▶ Minimal effects of other stressors (such as nearby water diversions or discharges of low-quality water) that could offset intended fish and wildlife benefits

## HOW WILL RESTORATION SITES BE MANAGED IN THE LONG TERM?

Individual habitat management plans will guide long-term management of BDCP restoration sites and will include:

- Biological goals and objectives to be met by the restoration activity
- Site-specific monitoring requirements and approach to adaptive management
- Controls for invasive plants
- Controls for non-native predators and competitor species
- Vegetation management and infrastructure maintenance
- Public access and other allowable uses

In addition, recent legislation created the Delta Conservancy to implement long-term restoration efforts.

## WHAT IS THE BDCP?

The BDCP is an HCP and NCCP under federal and state laws, respectively. When completed, the BDCP will provide the basis for the issuance of Endangered Species Act (ESA) authorizations for the operation of the state and federal water projects. The plan considers a 50-year planning period. The heart of the BDCP is a long-term conservation strategy that sets forth actions needed for a healthy Delta ecosystem.

## WHY IS THE DELTA IMPORTANT?

The Delta is home to half a million people and many historic communities. It is a key recreation destination and supports extensive infrastructure of statewide importance. Fresh water that reaches the Delta is the core of California's water system, which provides 25 million people throughout the Bay Area, the Central Valley, and southern California with a portion of their water supplies. Delta-conveyed water supports farms and ranches from the north Delta to the Mexican border. These agricultural resources are a major economic driver for the state, producing roughly half of the nation's domestically grown fresh produce. The Delta – the largest estuary on the West Coast – is also a vitally important ecosystem that is home to hundreds of aquatic and terrestrial species, many of which are unique to the area and several of which are threatened or endangered.

For More Information visit

[www.BayDeltaConservationPlan.com](http://www.BayDeltaConservationPlan.com)

or call 1-866-924-9955

Contact Karla Nemeth

at the California Natural Resources Agency at:

[karla.nemeth@resources.ca.gov](mailto:karla.nemeth@resources.ca.gov)

## WHO IS PARTICIPATING IN THE BDCP?

The BDCP is being prepared through a voluntary collaboration of state, federal, and local water agencies, state and federal fish and wildlife agencies, environmental organizations, and other interested parties. The BDCP Steering Committee consists of the following participants.

### STATE AND FEDERAL AGENCIES

California Department of Water Resources  
California Natural Resources Agency (chair)  
California State Water Resources Control Board  
US Bureau of Reclamation  
US Army Corps of Engineers

### FISH & WILDLIFE AGENCIES

California Department of Fish and Game  
US Fish and Wildlife Service  
US National Marine Fisheries Service

### WATER AGENCIES

Kern County Water Agency  
Metropolitan Water District of Southern California  
San Luis & Delta-Mendota Water Authority  
Santa Clara Valley Water District  
Westlands Water District  
Zone 7 Water Agency  
Contra Costa Water District  
Friant Water Authority  
North Delta Water Agency

### ENVIRONMENTAL ORGANIZATIONS

American Rivers  
Defenders of Wildlife  
Environmental Defense Fund  
Natural Heritage Institute  
The Bay Institute  
The Nature Conservancy

### OTHER ORGANIZATIONS

California Farm Bureau Federation  
Mirant Delta

**Planning Area Boundary:**  
 - - - - - Statutory Delta  
*Conservation measures also are identified in Suisun Marsh and upper Yolo Bypass areas.*

**Water Conveyance:**  
 - - - - - Water Conveyance Tunnel/Pipeline  
 - - - - - Isolated Conveyance Facility East Option  
 ■ Intake  
 ● Forebay

**Habitat Restoration Opportunity Area(s):**  
**Potential New Floodplain and Riparian Habitat Restoration**  
 10,000 acre target may occur anywhere appropriate within the planning area.

**Channel Margin**  
 20-40 mile target may occur within the following areas:  
 - Sacramento River Between Freeport and Walnut Grove  
*Approx. total area: 36 linear miles*  
 - Steamboat/Sutter Slough Area  
*Approx. total area: 36 linear miles*  
 - San Joaquin/Old River/Mossdale to Vernalis Area  
*Approx. total area: 86 linear miles*

**Floodplain (enhanced existing)**  
**Tidal Marsh**  
 Tidal marsh restoration over and above the minimum tidal marsh targets in each ROA, up to 65,000 acres, would be expected to occur over the life of the plan depending in part on the availability of willing sellers, as well as the total relative amount of suitable habitat within each ROA, among other factors.

**Terrestrial Restoration**  
 - - - - - May occur anywhere appropriate within the planning area.

**Yolo Bypass**  
**Objectives:** (1) modify Fremont or Sacramento weirs to increase the frequency and duration of Yolo Bypass inundation, (2) increase spawning and rearing habitat for splittail and salmon, (3) provide alternate migration corridor to the mainstem Sacramento River, and (4) increase availability and quality of food and habitat in Cache Slough.

**Inflow**  
**Potential objectives:** (1) maintain seasonal and daily increases and decreases in river flows between the mainstem Sacramento River and its tributaries, (2) maintain environmental cues used by fish and other aquatic species to signal spawning, migration, and other population responses and behaviors, and (3) increase the survival and growth of covered fish inhabiting the river and estuary.

**1 North Delta Diversion Bypass Flows \***  
**Objectives:** Maintain adequate river flows to (1) keep fish away from the pumps, (2) keep fish moving in the right direction, towards regions of suitable habitat, (3) minimize fish predation, (4) maintain or improve the overall quality of rearing habitat in the north Delta.

**Yolo Bypass/Cache Slough Area**  
 Minimum tidal marsh restoration target: 5,000 acres  
 within the total area: 49,167 acres

**In-Delta Water Quality**  
 Maintain existing water quality standards in the North, Central, and West Delta.

**Suisun Marsh Area**  
 Minimum tidal marsh restoration target: 7,000 acres  
 within the total area: 82,970 acres

**Rio Vista Flows**  
**Objectives:** maintain flows for migrating salmon and smelt.

**West Delta Area**  
 Minimum tidal marsh restoration target: 2,100 acres  
 within the total area: 6,178 acres

**Cosumnes/Mokelumne Area**  
 Minimum tidal marsh restoration target: 1,500 acres  
 within the total area: 7,805 acres

**Delta Cross Channel Gate**  
**Operations**  
**Objectives:** (1) reduce movement of outmigrating Sacramento River fish into central Delta, (2) maintain flows downstream on Sacramento River, and (3) provide enough Sacramento River flow into interior Delta when water quality for municipal and industrial use and agriculture may be of concern.

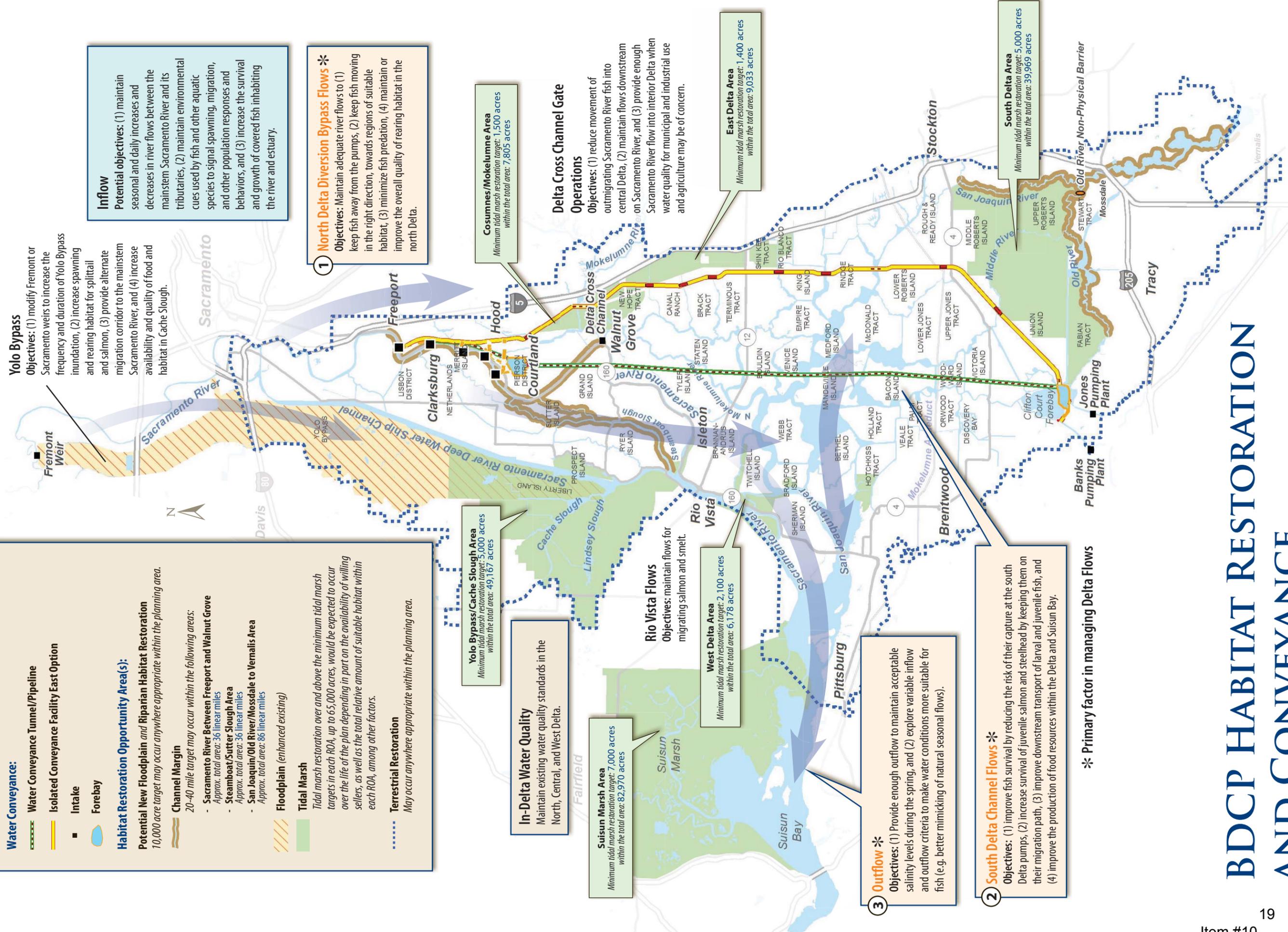
**East Delta Area**  
 Minimum tidal marsh restoration target: 1,400 acres  
 within the total area: 9,033 acres

**3 Outflow \***  
**Objectives:** (1) Provide enough outflow to maintain acceptable salinity levels during the spring, and (2) explore variable inflow and outflow criteria to make water conditions more suitable for fish (e.g. better mimicking of natural seasonal flows).

**2 South Delta Channel Flows \***  
**Objectives:** (1) improve fish survival by reducing the risk of their capture at the south Delta pumps, (2) increase survival of juvenile salmon and steelhead by keeping them on their migration path, (3) improve downstream transport of larval and juvenile fish, and (4) improve the production of food resources within the Delta and Suisun Bay.

**South Delta Area**  
 Minimum tidal marsh restoration target: 5,000 acres  
 within the total area: 39,969 acres

\* Primary factor in managing Delta Flows



# BDCP HABITAT RESTORATION AND CONVEYANCE

## New state agency tries to revive delta

Wyatt Buchanan, Chronicle Sacramento Bureau

Sunday, June 27, 2010

Read more: <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2010/06/27/MNB01E0QML.DTL#ixzz0spf3b5rS>



Lance Iversen / The Chronicle

A cornfield gets its fresh irrigation water from the Sacramento River just north of Rio Vista.

Over the past 10 years, California spent more than \$3.5 billion on an agency that failed to solve the water crisis in the Sacramento-San Joaquin River Delta.

Now, the state is trying again - with a newly formed agency.

This new agency is much like the old one with a different set of rules: It has the same staff of about 50 employees who were transferred over from the failed organization, and it has hired the same consulting firm to do much of the ground work, raising questions of whether it will succeed where its predecessor failed or whether it will be another expensive boondoggle.

The stakes are enormous: the ecosystem of the delta - which provides water for 25 million Californians and millions of acres of farmland - is on the verge of collapsing, water users have seen their yearly allotments slashed, and a major earthquake could destroy the levee system protecting islands, communities and farmland in the region.

Sen. Joe Simitian, D-Palo Alto, author of the bill that created the new agency - the Delta Stewardship Council - said there is no guarantee the council will succeed where the old agency, CalFed, failed.

But something needs to be done. Decades of "benign neglect and ineffective governance have not served the state well," Simitian said. "There's always some risk with a new direction, but I think the old model was a proven failure."

## **CalFed's failure**

CalFed began in 1994 as an agreement between the federal and state governments to work together on delta water issues. But the pact proved ineffective almost from the start.

In 2000, the state and federal governments created a more formal process that was supposed to fix the delta for everyone - its motto was "everyone gets better together." They pledged to improve water supply and quality and strengthen the ecosystem and levees.

Ultimately, CalFed became an amalgamation of 25 local, state and federal agencies and other organizations with disparate interests in the delta. The idea was to unite - and spend big - for a common cause.

But, created under the Clinton administration, interest in CalFed waned during the Bush years. To worsen matters, CalFed was enormous, with so many agencies involved that it struggled under its own weight to create a structure to make decisions.

In 2002, the Legislature created a new governing board to oversee CalFed: the Bay-Delta Authority. But the authority stopped meeting in the past few years because not enough members showed up for the scheduled sessions.

## **No consistent funding**

Perhaps contributing most significantly to CalFed's failure is that it lacked the force of law in its decisions and did not have a consistent source of funding to operate. An audit of the program determined that the state spent \$217 million in general fund dollars from 2000 to 2004, along with \$813 million in bond funds. The federal government was supposed to contribute significant money, too, but in the same period spent just \$242 million.

Later in 2004, the program released a controversial 10-year financing plan totaling \$8 billion, which drew wide criticism and led the Legislature to slash its budget. Then, in early 2007, the Public Policy Institute of California concluded in a report on the delta that CalFed "is now widely perceived as having failed to meet its objectives."

The Delta Stewardship Council was created via a bill the Legislature approved as part of last fall's comprehensive package of legislation to overhaul California's water infrastructure. Among the other bills that passed was one for an \$11 billion water bond that voters will decide in November.

In crafting the stewardship council, lawmakers sought to avoid the pitfalls that doomed CalFed. They made the council small and powerful - a panel of only seven individuals - as opposed to the more than two dozen agencies that made up CalFed.

This group, appointed largely by the governor, is charged with creating a comprehensive plan to revive the delta - with the "co-equal goals" of restoring the ecosystem and

ensuring water supply reliability for the state - by Jan. 1, 2012, an extremely tight deadline by government bureaucracy standards.

## **Final plan will become law**

One key difference from CalFed is that the council's final plan will actually be state law. Simitian said some lawmakers were wary about how much power to give the council, as it would limit the Legislature's authority. But he said he believes giving it real legal teeth is essential for success.

"I would suggest to you that if everyone is a bit nervous, that is a good thing," Simitian said.

The council first met in April and has had four meetings since, including last week.

"This is a bigger step than the kind of limping along of the last 30 or 40 years," said Phil Isenberg, the chairman of the stewardship council who is a well-regarded former mayor of Sacramento and a former state assemblyman.

As for the similarities to CalFed, Isenberg defended the decision to transfer the staff and said it is important to retain them to meet the new timelines. "I think they are competent, and I don't think there is any way the state deadlines would be met without" them, he said.

State water experts agree that California needed a new direction for the delta and that putting decisions into the hands of a limited council is a better process.

"The way it has been set up, the decision will come to seven people working on a council rather than getting a bunch of agencies to form a consensus," said Ellen Hanak, director of research for the Public Policy Institute of California, adding, "You have more of a sense of who is in charge."

And even though it ultimately failed to solve the crisis in the delta, CalFed did fund a lot of research about the delta estuary that gives the council a better starting point for making decisions than its predecessor, Hanak said.

What is yet to be resolved, however, is how the council will fund its ongoing operations - a key reason CalFed failed. The governor's proposed budget for the year beginning July 1 sets aside nearly \$50 million to fund the stewardship council, money that previously was budgeted for CalFed.

## **Long-term finance plan**

But future funding was not specified in the water legislation, Simitian said, because determining who would pay and how much they would pay probably would have overwhelmed and doomed the debate over the package of water bills.

Last week, a Senate committee approved a bill by Assemblyman Jared Huffman, D-San Rafael, to require the Delta Stewardship Council to create a long-term finance plan with fees assessed to the beneficiaries of the council's delta plan. The fee plan would need approval by the Legislature.

Huffman called his legislation "a critical missing piece" of the water legislation and the lack of funding a "critical flaw" in CalFed.

Whether the council succeeds where CalFed failed will depend largely on the members of the council, said James Mayer, executive director of California Forward and former executive director of the Little Hoover Commission, a state body that investigates state operations.

That commission published a damaging assessment of CalFed in 2005.

## **People key to success**

Mayer said he believes the ultimate success of the council could have more to do with who is on the panel than the law creating it, and predicted the council would be successful if its members take action that "represents the long-term public interest."

"Regardless of what's in the law, the question is whether the stewardship council will develop the political authority to compel cooperation and alignment of otherwise competing public agencies," Mayer said.

Environmental organizations themselves were split on whether they supported the legislation creating the council and that divide has continued in predictions of the council's success.

"We felt that this was CalFed redux," said Jim Metropulos, senior advocate for the Sierra Club California. "I just think the council is not really empowered to make wholesale changes to the delta and improve water supply reliability."

Cynthia Koehler, California water legislative director at the Environmental Defense Fund, said she is optimistic about the council's prospects.

"This is clearly a time-will-tell kind of thing," she said. "This is the next experiment."

## **Delta Stewardship Council members**

-- **Phil Isenberg**, chairman, is a former state assemblyman and mayor of Sacramento. He is a lawyer and, until recently, a registered lobbyist. He also chaired the Delta Blue Ribbon Task Force, which called for creating an independent body to oversee the delta.

-- **Randy Fiorini** of Turlock (Stanislaus County) is the managing partner of Fiorini Ranch and managing partner of FarmCo. He is the past president and board member of the Association of California Water Agencies.

-- **Gloria Gray** of Inglewood (Los Angeles County) is a member of the board of directors of the West Basin Municipal Water District. She previously spent 36 years at the Los Angeles County departments of Human Services and Health Services.

-- **Patrick Johnston** of Stockton is president of the California Association of Health Plans and spent 20 years in the Legislature. He is a former member of the Bay-Delta Authority and the Delta Protection Commission.

-- **Hank Nordhoff** of Del Mar (San Diego County) is chairman of Gen-Probe Inc., a biotechnology company.

-- **Don Nottoli** of Galt is a member of the Sacramento County Board of Supervisors and is chairman of the Delta Protection Commission.

-- **Richard Roos-Collins** of Berkeley is director of legal services for the Natural Heritage Institute. He is co-chair of the Agricultural Water Management Council and was a member of the Bay Delta Conservation Plan Steering Committee.

### **West Coast's largest estuary**

The Sacramento-San Joaquin River Delta is home to more than 750 animal and plant species. More than 500,000 people call it home, and it is a recreation and tourist destination. The delta is the hub of state, federal and local water systems providing at least some of the water needs for two-thirds of Californians. It is formed by the confluence of the state's two largest rivers: the Sacramento and the San Joaquin.

Source: Delta Stewardship Council

E-mail Wyatt Buchanan at [wbuchanan@sfchronicle.com](mailto:wbuchanan@sfchronicle.com).