

Delta Protection Commission Staff Response to
Questions from Delta Vision Blue Ribbon Task Force
April 14, 2008

1. How do your department's activities contribute to achieving the co-equal values of sustaining both Delta ecosystem and water reliability functions, recognizing the California Delta as a unique and valued area warranting special legal status?

The Delta Protection Act (Act) of 1992 and the Land Use and Resource Management Plan for the Primary Zone of the Delta (Management Plan) prepared and adopted by the Delta Protection Commission (Commission) in 1995 provide support for, and consistency with, the co-equal values of the Delta Vision.

The adoption of the Act by the Legislature and the Governor in 1992 demonstrates the State's recognition (then and now) of the continuing importance of preserving, protecting and enhancing Delta resources for the use of current and future generations. This enactment further provides acknowledgement of the increasing threats to the resources of the Primary Zone of the Delta from urban and suburban encroachment having the potential to impact agriculture, wildlife habitat, and recreation.

The Commission was created pursuant to the Act to assure orderly and balanced conservation and development of Delta land resources while recognizing the importance of maintaining and improving flood protection to ensure an increased level of public health and safety.

As called for in the Act, the Commission prepared and adopted the Management Plan. The Management Plan sets out findings, policies and recommendations resulting from background studies in the areas of environment, utilities and infrastructure, land use, agriculture, water, recreation and access, levees, and recreational boating. The policies of the Management Plan have been formally adopted in Delta local government general plans.

A process has been initiated by the Commission to update the Management Plan by December of 2008. A significant component of the process will be consideration of the Delta Vision and its co-equal values while recognizing the Delta as a unique and valued area warranting special legal status. The process will take into consideration factors influencing the Delta but not recognized in 1995 such as climate change, sea level rise, and all-hazard risks. It is likely that input and documentation derived from the process may also indicate a need to re-consider boundary locations relative to the Primary and Secondary Zones.

Also worthy of noting is that the 2006-2011 Strategic Plan adopted by the Commission in July of 2006 contains a vision, health indicators, mission, and strategies for program management, leadership and funding that further recognize the values of Delta Vision.

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Vision: The Delta in the year 2011 is a dynamic and living system.

Health Indicators:

- An integrated approach to water, land use and resource management planning sufficient to protect, maintain, enhance and restore the cultural and economic sustainability of residents, businesses, agricultural and recreational interests consistent with a healthy ecosystem;
- Sufficient flood protection (e.g., levee maintenance and improvement, and subsidence mitigation) for residential, commercial, agricultural and public infrastructure; and
- Sufficient fresh water flow and water quality in and through the Delta to meet the needs of Delta water users (residential, commercial and agricultural), recreation, habitat preservation and water quality.

Mission: To protect, maintain, and where possible, enhance and restore the overall quality of the Delta environment consistent with the Delta Protection Act and the Regional (*Management*) Plan, including, but not limited to agriculture, wildlife habitat and recreational activities; to ensure orderly, balanced conservation and development of Delta land resources and improved flood protection.

2. How do your department's activities contribute to achieving the remaining ten recommendations in the adopted vision?

The goals of the Management Plan for which findings, policies and recommendations were adopted in 1995, provide support for, and consistency with, achieving the recommendations of the adopted Vision. The adopted 2006-2011 Strategic Plan includes a provision for the identification of priorities (each year) for accomplishing the goals in the three strategy areas of Program Management (implementation of the policies and recommendations of the Management Plan), Funding and Leadership.

The adopted goals are stated below. The specific findings, policies and recommendations adopted for each goal are contained in the Management Plan, and specific accomplishments, to date, in achieving the goals, policies and recommendations are available in the annual reports provided each January to the Legislature and the Governor as mandated by the Act. These documents can be viewed on the Commission's web site (delta.ca.gov) or provided by Commission staff upon request by the Task Force.

Management Plan Implementation: Complete summary of accomplished policy recommendations cited in the Management Plan; establish priority/timeline for completion of remaining tasks; identify unaddressed areas; and develop tools for proactive "integration" of Management Plan into local general plans and planning resources resulting in a positive rather than adversarial image for the Commission.

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Environment: Preserve and protect the natural resources of the Delta, including soils; promote protection of remnants of riparian habitat; promote seasonal flooding and agriculture practices on agricultural lands to maximize wildlife use of the hundreds of thousands of acres of lands in the Delta; and promote levee maintenance and rehabilitation to preserve the land areas and channel configurations in the Delta by enhancing educational awareness of the benefits of an adaptive working landscapes approach to managing agricultural and habitat resources; exploring options for balancing environmental mitigation with other land uses, including agriculture and flood protection; and exploring options for land use practices (BMP) that reduce or reverse subsidence.

Utilities and Infrastructure: Protect the Delta from excessive construction of utilities and infrastructure facilities including those that support uses and development outside the Delta. Where construction of new utility and infrastructure facilities is appropriate, ensure the impacts of such new construction on the integrity of levees, wildlife, and agriculture are minimized.

Land Use: Protect the unique character and qualities of the Primary Zone by preserving the cultural heritage and strong agricultural base of the Primary Zone. Direct new residential, commercial, and industrial development within the existing communities as currently designated and where appropriate services are available.

Agriculture: Support long-term viability of commercial agriculture and discourage inappropriate development of agricultural lands by establishing forums for Delta-wide collaboration among agricultural interests on common activities and issues, and establishing a program for Delta agricultural easements.

Water: Protect long-term quality in the Delta for agriculture, municipal, industrial, water-contact recreation, and fish and wildlife habitat uses, as well as all other designated beneficial uses through the development of programs for Delta-wide collaboration to effectively and efficiently address water quality issues, including salinity intrusion, and participation in data collection/monitoring programs relative to salinity (X2).

Recreation and Access: Promote continued recreational use of the land and waters of the Delta. Ensure that needed facilities that allow such uses are constructed, maintained, and supervised. Protect landowners from unauthorized recreational uses on private lands. Maximize dwindling public funds for recreation by promoting public-private partnerships and multiple uses of Delta lands by establishing programs for recognition of the value of recreational access to appreciate the unique resources of the Delta.

Levees: Support the improvement and long-term maintenance of Delta levees by coordinating permit reviews and guidelines for levee maintenance. Develop a long-term funding program for levee maintenance. Protect levees in emergency situations. Give

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levee rehabilitation and maintenance the priority over other uses of levee areas by pursuing efforts to enhance recognition of public health and safety as a priority.

Recreational Boating: Pursue opportunities for development of Delta-wide programs to enhance boater awareness and an appreciation for recreational boating.

As previously noted, the goals will be subject to amendment as a part of the Management Plan update process currently underway by the Commission.

3. To what extent are the boundaries of the primary and secondary zone and the powers of DPC appropriate for the recommendations made in the vision adopted in November 2007 by the Task Force?

The delta Protection Act defines the Primary Zone of the Delta to mean the delta land and water area of primary state concern and statewide significance which is situated within the boundaries of the delta, as described in Section 12220 of the Water Code, but that is not within either the urban limit line or sphere of influence line of any local government's general plan or currently existing studies, as of January 1, 1992. The precise boundary lines of the Primary Zone includes the land and water areas as shown on the map titled "Delta Protection Zones" on file with the State Lands Commission. Where the boundary between the Primary Zone and Secondary Zone is a river, stream, channel, or waterway, the boundary line shall be the middle of that river, stream, channel or waterway.

The Act further defines the Secondary Zone to mean all the delta land and water area within the boundaries of the Delta not included within the Primary Zone, subject to the land use authority of local government, and that includes the land and water areas as shown on the map titled "Delta Protection Zones" on file with the State Lands Commission.

Given that the boundaries defined as the Primary and Secondary Zones were established in 1992 it stands to reason that such boundaries warrant review as to whether the lines, in their current configuration, continue to be sufficient for carrying out the provisions of the Act as intended. Political boundaries (city, county and council of governments) and jurisdictional authorities (local, regional, state and federal) should be taken into consideration. Additionally, geophysical and geographical factors, and natural influences, should be taken into consideration when evaluating and analyzing relocation of the zone lines.

During the update of the Commission's Management Plan, the effectiveness (or ineffectiveness) of the zone lines in meeting the intent of the Act will be evaluated. Information becoming available through the Delta Vision, and other related processes such as the Delta Risk Management Strategy, will provide input for this analysis. Given that the unique values of the Delta that served as the basis for establishing the Act are

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similar to those values prompting the development of a vision for the Delta, it is likely that the results of the evaluation during the Management Plan update process could provide information to the Blue Ribbon Task Force relative to the appropriateness of the zones for effectively implementing the strategies related to implement the Vision.

With respect to the powers of the Commission relative to the ability to carry out the strategies called for in the Vision, reference is made to the letter submitted by the Commission to the Task Force on August 28, 2007. It is suggested that the Commission, as created in 1992 (and subsequent amendments to the Act) provides a foundation for a governing body capable of addressing many of the components called for in the Vision created by the Task Force. However, it is acknowledged that while the Commission plays a prominent role in Delta governance, particularly land use authority through its appeal power and the inclusion of its policies in Delta local government general plans, there is the potential for it to evolve into an enhanced structure that integrates components of two other successful and relative governing entities: the San Francisco Bay Conservation and Development Commission (SFBCDC) and the California Coastal Commission (both of which have permitting authority). Another model of relevance is the Tahoe Regional Planning Agency.

Similarly, the components of the Commission's Management Plan have the potential to be enhanced through integration with components of SFBCDC's Management Plan as a template under the authorities provided by both the Delta Protection Act and the Coastal Zone Management Act.

Although a primary component of an effective integrated governance structure in the form of an enhanced Commission would continue to be the recognized influence of Delta local government and stakeholder representation, it is acknowledged that an effective authority providing responsibility and accountability would necessitate the establishment of mandates and time-sensitive benchmarks developed from a statewide, as well as Delta, perspective relative to public safety, water, habitat, agriculture, recreation and land resources. The timing is right for considering such a structure in that the Vision, and related processes, provides the statewide perspective and the Commission provides a proven effective governance structure.

In the event that a multi-pronged authority is recommended by the Task Force, the Commission should be looked to as the land use/conservancy component. In contrast, however, if the Commission were to be enhanced as the primary governing authority, a separate conservancy (in some form with local input) should be created to partner with the Commission in an effort to separate the authority body from that responsible for acquiring (or holding easements) and managing lands for conservation purposes.

In conclusion, the structure of the Commission, or some amended form, should be considered as an option for governance rather than creating an entirely new structure. It's

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recommended that the tools outlined in the August 28, 2007 letter be freshly reviewed as to options relative to: oversight authority; geographic area of governance; structure; independent oversight; guiding authority; and potential funding sources.

4. How should or could local land use governance be modified to provide for the land use recommendations provided by the Task Force in the vision adopted in November 2007?

While the policies of the Commission's Management Plan are formally adopted in local Delta government general plans, pursuant to the Act, it has become apparent that historically the policies were sometimes incorporated in a form that could be overlooked in the application review process or that planners may be addressing the policies as a mandate rather than through an understanding of the unique values of the Delta warranting adherence to the Management Plan.

In recent years, the Commission has made an effort to increase awareness of the Delta by Delta local governments. The primary campaign focus has been to recognize that all five Delta counties have a portion of the Delta within their jurisdictional boundaries yet in order to address challenges or effectively pursue beneficial opportunities, jurisdictional lines sometimes need to be ignored and the approach needs to be in the form of Delta-wide coordination and collaboration. Along with this awareness generally comes ownership and stewardship.

To this end many Delta-wide projects have been initiated by the Commission in partnership with local governments and other partners. Also, tools such as a Delta Checklist for project review of projects in the Primary Zone has been developed by the Commission, with input from the five counties, and is now being utilized by local planners.

Also, of significance is that four of the five Delta counties are undergoing general plan updates and consideration is being given by each to include a Delta Element or Chapter in the General Plan that would clearly lay out the policies of the Commission's Management Plan. This approach could set the stage for the Task Force in considering options for local governance enhancements to be analyzed and evaluated such as the creation of a Delta General Plan or the formation of a Delta COG overlay to blend the three COG jurisdictions that currently exists. While these are not options being recommended by the Commission they are provided as potential options to be further reviewed if the Task Force is seeking to enhance local government participation and commitment to the Vision and strategies for implementation. It is also highly recommended for consideration that local programs such as land trusts and conservation programs be taken into consideration when analyzing integration options for local government structures.

5. How can the numerous entities with emergency response oversight in the Delta collaboratively and effectively prepare a comprehensive regional Delta emergency plan to address gaps and overlaps in existing and segmented plans? Additionally, how can the societal issues of all-hazard response become integrated with the traditional flood fighting focus of emergency response, and how can an effective exercise be facilitated to ensure the comprehensive plan is recognized and efficiently utilized?

In 2006, the Commission convened a Summit of local elected officials in the five delta counties to discuss working together on delta wide emergency response planning to ensure a regional approach. Ensuring the social aspects of emergency planning and response would be addressed was a focus of the Summit.

Subsequent to the Summit, the Commission (in co-sponsorship with the Governor's Office of Emergency Services (OES)) initiated an aggressive collaborative planning effort to address delta wide emergency response. Also resulting from the discussions at the Summit, all five Delta counties subsequently signed (Contra Costa County execution in process) a Letter of Agreement and Commitment for participation in the process as the Sacramento-San Joaquin Delta Flood Response Group.

The goal of the process is to develop a Delta-wide regional emergency preparedness and response strategic plan (by 2010) and to conduct Delta-wide all-hazard response exercises (starting in Fall 2008) to test the plan through time. Partners in the process continue to evolve and currently include the Department of Water Resources. Other participants have included: Corps of Engineers; Public Utilities Commission; and the Coast Guard.

While it is recognized that several agencies and organizations have developed exemplary technical flood fighting plans/documents and that other planning efforts exist or are underway, the Commission/OES initiative focuses on the need to ensure these plans are integrated into the Regional Strategic Plan, and that all aspects of a major emergency event have been considered, particularly the societal aspects. To assist in the facilitation of this challenging process, the Commission and OES have contracted with the Center for Collaborative Policy-CSUS.

Initiated in November 2007, Phase 1, will conclude in June 2008, include the following:

- Identify all key stakeholders that would have an active role during a catastrophic emergency response in the Delta;
- Develop an analytical approach to overlay existing plans, and initiatives that will identify any gaps, overlaps or conflicts within existing planning efforts;
- Complete a review of several plans, offering a representative sample of trends and data found across federal, state, and local existing planning efforts;

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- Develop benchmarks, milestones and deliverables to address and coordinate efforts together with all agencies and organizations involved with the Delta response effort for a comprehensive project;
- Document the results of these tasks into a report outlining a multi-phase approach to collaborative work efforts; and
- Identify, and in conjunction with Delta Flood Response Group, apply for funding sources for preparation of a Delta Regional Emergency Strategic Plan.

Future phases will include:

- Designing and completing a comprehensive Stakeholder and Organizational Assessment to design a large-scale collaborative approach;
- Initiating a plan development framework for integrating all current efforts by applying coordinated techniques, meetings and stakeholder involvement;
- Developing a fully integrated Regional Emergency Strategic Plan by the end of 2010 which will serve as a coordination tool for current emergency operations as well as the structure for future emergency and homeland security work in the Delta; and
- Development and implementation of all-hazards response test exercises (initiated in September of 2008).

The desired outcome of producing, in a collaborative manner, a Delta Regional Emergency Strategic Plan, is unification and coordination of multiple emergency planning efforts in the Delta at the local, state and federal levels. This Strategic Plan is intended to be an integrated framework of existing plans and initiatives coordinated within a comprehensive structure that allows for common terminology, shared assumptions, and mutually supportive data, and involved stakeholders.

The primary objectives are: to ensure that no gaps, overlaps or conflicts exist in emergency response in the Delta; that interagency understanding of missions and resources are clarified and acknowledged in a streamlined approach; that emergency response is enhanced through increased awareness and education of residents of the Delta, and the finalization of a foundational document for use in emergency response exercises so crucial to ensuring that well thought out plans are utilized in an emergency.

The Blue Ribbon Task Force is encouraged to look to this process as an avenue for achieving the strategies of Delta Vision relevant to emergency preparedness and response.

The Commission appreciates the opportunity for input and Commission staff is available to further elaborate on any of the answers discussed herein upon request of the Task Force or its staff.

