

**DEPARTMENT OF WATER RESOURCES**

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September 2, 2008

Mr. Phil Isenberg, Chairman  
Delta Vision Blue Ribbon Task Force  
650 Capitol Mall, Fifth Floor  
Sacramento, California 95814

Chair Isenberg and Members of the Task Force:

Attached please find Department of Water Resources' (DWR) comments on the third staff draft of the Delta Vision Strategic Plan. The attached comment paper begins with an overview of key issues and then provides more specific comments about the Strategic Plan's recommendations related to governance and timing of exports.

The Delta Vision Blue Ribbon Task Force has done much to renew and expand needed dialogue regarding the management of the Sacramento-San Joaquin Delta. The Task Force has made significant progress in identifying a list of strategies which have the greatest potential to address the many challenges facing the Delta. Additionally the Task Force has proposed a governance framework to sustain implementation of those strategies. The process thus far has stimulated useful debate regarding the future of governance not only for the Delta, but for statewide water resource management.

The challenge faced by the Task Force is to provide a physical, biological, and governance framework that secures a sustainable future of the Delta and its resources without creating unnecessary conflicts which impede progress. DWR's comments on the draft are intended to outline several concerns and suggestions regarding some of the recommendations contained within the Strategic Plan. Our objective is to help identify issues and actions that must be part of any strategic plan, those that need further development or assessment, and those actions that need to be part of a subsequent implementation plan.

DWR has a vested interest in the successful outcome of the Task Force and in the fulfillment of the Governor's charge to develop a workable plan that leads to the sustainability of the Delta.

We look forward to working closely with both staff and the Task Force members to provide additional, more specific input over the next two months as the Strategic Plan is refined and finalized.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lester A. Snow", with a long horizontal flourish extending to the right.

Lester A. Snow  
Director

Enclosure

# DWR Comments on Delta Vision Strategic Plan Third Staff Draft

## Overview

The Delta Vision Strategic Plan does a good job of advancing a comprehensive strategic framework. However some of the structure, level of detail and conclusion distract from the critical elements of the vision. Key issues include:

- **Level of Detail:** The Strategic Plan contains significant detail in several areas including habitat acreage, flow requirements, and legislative action dates. Overall, the detail distracts from the clarity and purpose of the document. Rather than being prescriptive or predecisional in its recommendations, the Strategic Plan should focus on recommending objectives and direction as well as new or revised structures and processes that allow for thorough analysis to shape and ultimately determine the details of implementation. Rather, in some cases, the current version of the Strategic Plan dictates outcomes without including sufficient explanation or justification (science, engineering or modeling work) to support the changes. Many sections contain a very specific level of detail for both actions that need to be taken and performance measures to assess progress. In virtually all sections the detailed information is not substantiated or transparently developed and thus the basis for making the decision is not clear. This is of particular concern since the Plan itself recommends that the Strategic Plan serve as the interim master plan for managing the Delta until the recommended “California Delta Ecosystem and Water Plan” is developed.
- **Use of Targets:** Where numerical targets are necessary to define a strategy, we recommend that a range coupled with adaptive management principles be used and that any detailed metrics, such as those relating to Delta flow standards and changing the “geometry” of the Delta should be given as examples only, to be refined through scientific or engineering analysis. Given that this is a strategic plan not a project-specific implementation plan, we recommend that the detailed project and site-specific information be removed, the document be shortened and refocused on the objectives and strategies identified to achieve the Delta Vision.
- **Delta Region Involvement:** It must be clear that Delta counties and other Delta local government entities have a significant and meaningful role in the implementation of the Strategic Plan and that this role is well integrated throughout the Plan’s recommendations. Sustaining “Delta as Place” should be more strongly connected to the co-equal goals of ecosystem and water.
- **Ongoing Efforts:** The Strategic Plan would benefit from the clear description of the ongoing Delta efforts being conducted by local Delta counties as well as state and federal agencies. In multiple instances the Plan characterizes “needed efforts” or actions without acknowledging current efforts. One example of this is DWR’s ongoing integration of flood management planning into the California Water Plan which appears to be completely in line with Strategic Plan Strategy 3 “Integrate Central Valley flood management with water supply planning”. Furthermore, consistent with DWR’s flood planning efforts, the Strategic Plan’s recommendations must clearly make the protection of human life foremost in the management priorities of Delta land use.
- **Governance:** Large scale governance reform can die under the weight of the effort if it is not carefully managed. The Strategic Plan must clearly phase governance reform in the Delta and do so through a process that is supported by the development of additional detail and rationale for the recommended changes. Some of the recommended governance changes in the Strategic Plan are not clearly supported by alternatives analysis and the purpose for the change is not always apparent. Additionally,

governance reform has potentially significant implications aside from those intended for the Delta and those who rely upon the Delta. The likelihood for unintended impacts to other non-Delta water and resource management issues across the state needs to be better understood and any impacts must be taken into consideration for purposes of decision-making.

## Governance

One of the objectives of the Delta Vision strategic plan is to improve governance for the Delta. The third staff draft of the strategic plan calls for “consistency, not chaos” in its approach to redefining governance for the Delta. However, as written the plan lacks sufficient information about how the proposed changes would improve Delta governance and whether they would be more effective than current or past Delta governance structures. On the surface, the proposed changes appear to complicate Delta governance by calling for the creation of new layers of government without clearly removing or modifying existing layers.

The proposed list of new entities includes:

- Delta Conservancy
- State Water Project utility/JPA
- National Heritage Area managing body
- State Recreation Area managing body
- California Delta Ecosystem and Water Council, which would also include;
  - a science and engineering board
  - a science program
  - a public advisory group
  - an operations team (though it is not clear how it would differ from the existing multi-agency Water Operations Management Team)

The Strategic Plan lacks sufficient information about the many new proposed organizational structures which leads to a lack of clarity regarding each entity’s scope and function, and the relationships among the new structures and existing agencies. For example, can the Council override decisions made by the State Water Resources Control Board regarding outflow standards or the Department of Fish and Game regarding CESA compliance? Furthermore, it is not clear whether consideration was given to assigning new or enhanced authorities to existing agencies (or within existing agencies), rather than creating multiple new entities. Again, this concern highlights the need for a transparent alternatives analysis.

DWR offers the following suggestions:

**Phased Governance** – The Delta Vision Strategic Plan proposes significant changes for management of the Delta. While there is some discussion of the timing or sequencing of these changes, we propose that additional thoughtful consideration be given to phasing governance changes, with the Conservancy being established first.

DWR agrees with the Strategic Plan’s recommendation that the authority and scope of the Delta Protection Commission be broadened to allow for management oversight of lands outside the Primary Zone that have the potential to significantly impact the Delta and its resources.

**Establish a Delta Conservancy** – We support the creation of a Delta Conservancy. However, the strategic plan must further define the role of the new conservancy.

A good model for the Delta conservancy could be the Sierra Nevada Conservancy, established in 2004. The Sierra Nevada Conservancy includes both regional and federal

representatives similar to what would be needed by a Delta conservancy. Examples of program objectives for a Delta Conservancy might include:

- Protection of Delta agriculture through conservation and agricultural easements.
- Acquisition of lands for conservation and restoration of the delta ecosystem.
- Promotion of tourism, recreation and access to public lands
- Support for local and regional economies through increased economic development opportunities
- Protection of cultural, archaeological, and historical resources

The Delta Conservancy should draw upon staff expertise within DWR, CALFED, DFG and other appropriate entities.

**DWR and the State Water Project** – The separation of the SWP from DWR should not be an objective, but should instead be implemented only if it is driven by a revised focus of DWR as a water resource stewardship entity with responsibilities including statewide planning, promotion of water use efficiency, technical support to local agencies, drought response, data collection, modeling and analysis, grant management, flood management, integrated resource management, etc. Before further consideration is given to the separation of the SWP a detailed assessment must be prepared regarding the responsibilities that would remain with DWR, how those functions would be sustainably funded and the governance structure and powers of the new utility. Though the Strategic Plan makes general recommendations for fee collection, it is essential that a detailed transition plan is developed and a financing mechanism in place before action is taken.

It is important to note that the creation of the SWP as a separate entity may create the need for duplicative internal services that DWR currently leverages for the benefit of both the SWP and flood management and local assistance programs, including environmental planning and mitigation, legal services, real estate and right of way expertise, contracting, budget and fiscal operations and more. Splitting the SWP from DWR is a serious proposal with major statewide water and flood management implications that deserve thoughtful deliberation and vetting.

**Delta Oversight** – The Strategic Plan calls for the creation of the California Delta Ecosystem and Water Council (CDEW). According to the Plan, the CDEW council would oversee all activities in the Delta, assess fees and allocate resources and provide a forum for resolving differences and ensuring accountability.

The Strategic Plan does not include sufficient information to understand if this change would accomplish the goals it is ostensibly designed to achieve. It is unclear how the Council's perceived roles and responsibilities can be enforced and how they would relate to existing state and local agency mandates and regulatory requirements/permitting authorities. The CDEW Council's master plan is described by Delta Vision as "legally binding", but there is not enough detail given to determine whether this would be possible. It is also unclear whether other options were given serious consideration and what the strengths and weaknesses of the various options are.

In the Strategic Plan's discussion of the role of Delta oversight it is important to describe the goals of an oversight structure along with a reasonable range of its responsibilities and authorities to achieve those goals. An option might be to provide oversight responsibilities for the Delta through a reconstituted California Water Commission, which could remain in DWR, if indeed the SWP is created as a separate entity, or be organized as part of the Resources Agency.

**Clarify Roles and Responsibilities/Address Staffing Needs** – Again, as written, the Strategic Plan is unclear about proposed roles and responsibilities for both existing and

new agencies. Many of DWR's existing responsibilities would appear to be transferred to new governance structures in the Plan and thus there is a risk that there will be redundant or conflicting responsibilities. For instance, would the Delta Conservancy assume the existing wildlife and habitat enhancement responsibilities of the Department (such as administration of Water Code Sec. 12300 et seq. regarding Delta levees)? If so, how would those responsibilities relate to DWR's on-going flood management planning and levee program responsibilities, or to the environmental mitigation responsibilities of the SWP? These questions of responsibilities need to be clarified as part of the Strategic Plan's recommendations.

Many of the actions described in the Strategic Plan parallel a number of the goals and activities of DWR. Future implementation of these actions will benefit from DWR planning and insight. In some cases the implementation of the actions in the Strategic Plan will expand DWR's existing responsibilities. Coordination, technical expertise and expanded implementation will all require new staff and a significant investment of time.

### **Timing of Exports**

The Strategic Plan overemphasizes the exploitation of wet year diversions. The emphasis should instead be on strategies that tie water diversions to times when fish are best protected—including all year types.

It is important to recognize that in this era of regulatory and judicial constraints that the intuitive timing of diverting excess water when it is abundant is not always possible. Under current conditions the best time to move water through the Delta is when it is dry, which points to the need for additional storage facilities north of the Delta and improved water conveyance that can reduce effects on fish. Preliminary studies for Sites Reservoir, Los Vaqueros Expansion and Shasta Enlargement show significant dry year opportunities to improve water supply reliability south of the Delta. The Plan does not highlight the opportunities that new storage and conveyance can bring to the system during dry periods when the system is otherwise stressed. By emphasizing diversions only when it is wet, the Strategic Plan's recommendations may not be implementable and should be adjusted to focus on diversions when they are safe for fish (not necessarily when conditions are wet). Recommendations which create opportunities and flexibility in dry years are more valuable to protecting the Delta than strategies to move water during wet periods.