



Oct. 8, 2008

Honorable Phil Isenberg, Chair
Members of the Delta Vision Blue Ribbon Task Force
c/o John Kirlin, Executive Director
1416 Ninth St., Suite 131
Sacramento, CA. 95814

Dear Mr. Isenberg and Task Force Members,

On behalf of those of us who fish, boat and take photographs in the California Delta, I would like to extend a sincere thanks to you, the task force, stakeholder's group and staff for tackling the thorny and complex issues of the estuary.

You have done the work in a diligent manner and with a positive attitude and good humor.

For your background, I have worked as a long-time outdoor writer, who has written many stories about the decline and unique qualities of the delta (a recent story on the delta has been attached). These stories have focused on the flow and water quality issues, fishery decline, problems with invasive species and many local environmental issues. My most recent story appeared in the latest issue of the 35,000-subscriber, Western Boating Safety Group News magazine and should be of interest, because it explores the growing problem with abandon recreational and commercial boats in the delta (a copy of the story has been attached).

My professional background has included spending many years working to resolve the complex issues at Lake Tahoe as Executive Director of the League to Save Lake Tahoe and serving on many panels creating and implementing strategies to deal with problems in the Sierra Nevada, including serving on the steering committee for the SIERRA NOW conference, forming the Sierra Nevada Alliance and advocating for creating the Sierra Nevada Conservancy.

On the delta issues, I wear another hat at my consulting business – yes, it's called Fishy Business Consulting.

It's called "Fishy Business," because of my working not only writing about fishery issues, but also its focus on doing fundraising for projects, including some dealing with awareness building and education in the delta.

That work currently includes:

- Completing planning for a capital campaign for the California Delta Habitat & Education Foundation to build an environmental education center on Spud Island, which is located seven miles from Stockton.
- Raising funds to coordinate the work of a number of groups with educational and interpretive centers in the delta.

My efforts have also included work as the Executive Director of the Discover the Delta Foundation, which is in the final stages of planning, gaining permits and raising funds to build a 7,000-square-foot information center at Rio Vista (www.discoverthedelta.org).

Because of this work, I have followed development of the strategic plan, particularly the relevant goals and strategies in the "Delta as a Place" section.

I would like to join the Delta Protection Commission (DPC) and others in supporting the need for giving the "Delta as a Place" a higher status as a strategic priority – in effect making it the third leg of the stool. Adding such an emphasis to create a "tri-equal" goal would help set the stage for creating the necessary local infrastructure that will be needed to implement the other strategies, while preserving and enhancing the local economy.

In reviewing draft four of the plan, it is my view that successful implementation will be extremely challenging for two reasons:

1. There is not awareness among the public about problems and significance of the delta to the State of California. That awareness will be critical to overcoming the barriers to implementation created by the highly fragmented interest groups, which are prone to managing policy through political campaigns, ballot initiatives and litigation.

2. And the plan focuses too much on top-down government agency solutions to the delta problems, rather than suggesting that an infrastructure be created to encourage, facilitate and fund public-private partnerships, particularly those with the nonprofit sector. Such an emphasis would help implement projects and build an important local, regional and statewide constituency for the delta.

Lack of Awareness of Delta Problems

Concerning #1, there is to my knowledge no statewide survey of public awareness of the delta, its significance as a state resource or its problems. There is, of course, a lot of anecdotal evidence, some of which has been reflected in testimony as part of the Delta Vision process. As you probably know, the *Stockton Record* newspaper reported that a survey conducted by the City of Stockton revealed that less than 50 percent of its residents knew they live near the delta.

The strategic plan should describe this lack of awareness in Section I, and then suggest measures for increasing educational efforts in Section II. Any successful implementation of the strategies, such as creating a new conservancy, gaining approval of bonds, purchasing property or easements for flood protection, etc., will depend on the public being aware of the needs and providing support for the measures in the State Legislature or on the statewide ballot.

If they choose, state conservancies can play a major role in creating and delivering vehicles for increasing awareness of problems in the areas in which they work. For instance, the California Coast Conservancy publishes an award winning magazine that keeps the coastal issues at the forefront for the public. Conversely, the Sierra Nevada Conservancy and Tahoe Conservancy have no major public education vehicles. Such operational priorities are, of course, set by the conservancy's directors, but the public education emphasis would get greater emphasis in enabling legislation to create the new Delta Conservancy with a recommendation the Delta Vision Strategic Plan.

Need to Stimulate Public Private Partnerships

Concerning #2, much of the infrastructure has necessarily focused on managing water – the prioritizing levee repairs and maintenance, dual conveyance or some other option for routing water around the delta, protecting the utilities and other structures in the event of a catastrophic flood event or from the impact of a rising sea level and of the need for a revised governance structure.

The strategies have not focused on the lack of a different kind of infrastructure – the lack of funds and delta government and non-government infrastructure to efficiently carry out the local work in the strategies.

As example:

- There is no major, established land trust with a mission of working to implement delta-wide land protection strategies as suggested in various places in the strategic plan;
- Few local government agencies have the funds to conduct land protection or restoration activities in their jurisdictions;
- The DPC, which is the closest agency to a state conservancy operating in the delta, has the authority and desire to work with nonprofit and community partners, but does not have adequate funding for a meaningful grants program;
- The DPC has produced some impressive plans for improving the economy in the Delta, but there are few established groups to implement them. As example, for instance, not many of the strategies in the six-year-old Delta Boating Needs Assessment have been implemented.
- Local government agencies lack the funding to solve delta problems, even after spending many hours identifying them. For instance, Sacramento County could not provide the local match for California Department of Boating and Waterway funds to remove abandoned boats from their jurisdiction.

The draft plan recommends that continued planning and implementation of these types of projects should be transferred to the new Delta Conservancy.

In doing that, though, the new conservancy should have as one of its main focuses creating the non-governmental infrastructure necessary to improving the environment and the local economy. This is the approach that was taken by the Coastal Conservancy with its grants program and other work to create functioning nonprofit organizations, which are now self sustaining and working to protect the coast.

This type of infrastructure is critical to the recommended strategies of creating visitor and environmental centers at the entrances to the California Delta. It is critical to preserving land as some form of open space for recreational or wildlife purposes or for flood bypass areas. It is critical to preserving agricultural land through a greatly expanded conservation easement program. It is critical to creating land banks, which can protect resource lands and provide funds for recreational infrastructure. It is critical to local government being able to improve its infrastructure to attract tourists.

Here are some suggested changes to the draft to strengthen the “Delta as a Place” concept and sections:

Section I, Page 2, add the following new goals:

8. Increase the awareness of the problems, challenges and significance of the California Delta as a resource among residents of the state;
9. Expand the infrastructure in the delta for stimulating public-private partnerships for projects that improve the environment and enhance the economy.

Suggested language in the “Section I, A. Context” section of the report:

Public Lacks Awareness of the Delta’s Significance, Problems

While the debate on various plans for the future of the delta has been intense among policymakers and stakeholders, the awareness of the significance of the estuary and of its problems seems generally low among residents of the state. Such a conclusion is based on anecdotal evidence, because there have been few public opinion polls done to assess the awareness among the public.

In a survey on water reliability that was conducted by the City of Stockton in December 2006, results showed that less than 50 percent of its residents knew that they live near the delta. As reported in the *Stockton Record* newspaper on June 4, 2007, the survey also revealed that: “Only 33 percent of Stockton residents can say specifically where the Delta is. Nineteen percent know only that the Delta is somewhere around Stockton. Twenty-eight percent said they did not know the Delta’s location. Those 55 and older were more likely to answer correctly.”

Older residents are probably more aware of the delta, because they have lived through droughts and statewide attempts to resolve the problems, including the debate surrounding the Peripheral Canal ballot initiative.

It is likely that many Southern California residents know that some of their drinking water passes through the delta, but don’t know much about the flow amounts, regimes or threats. As indicated by a September 2008 survey of Orange County residents, they do know that

they want a reliable water supply in the future. A survey of 500 county voters done by M4Strategies, showed that 87 percent of voters said that the county’s current water supplies were insufficient to meet future needs. When informed that over half of their water comes from Northern California and the Colorado River, over 90 percent said public officials should work to ensure a reliable source of water in the future.

While the Orange County residents want reliability, they seem less clear about preferences for strategies for accomplishing that desire. In the survey, 33 percent favored seawater desalination, while 31 percent favored conservation and 12 favored “recycled or treated waste water.”

This survey was limited to one area. There is little other data to support attitudes in other Southern California communities.

Spreading the Word about the Delta

Information about the delta generally depends on news coverage in newspapers, magazines, television, radio and on web pages on the Internet. This news coverage focuses mostly on recreational opportunities, but also on information regarding topical efforts to deal with the problems, such as the discussion over planning efforts, such Delta Vision or other plans.

In coverage of environmental challenges, the news coverage tends to focus on specific problems and rarely deals with the complex relationship between water for people and for wildlife. Unlike other areas, there is no news service collecting and disseminating information to news outlets about the delta. Few comprehensive books have been written about the environmental problems in the delta.

Currently, there are a number of plans to construct educational or interpretive centers in the delta. Some of the efforts are active, while others have been stalled after many years of discussions. Some of these include:

- Discover the Delta Information Center at Rio Vista (in the permitting phase);
- California Delta Habit and Education Foundation educational center at Spud Island near Stockton (in the permitting phase);
- East Bay Municipal Utilities District's Delta Science Center at Big Break (planning has not been active for some time);
- California Department of Fish and Game's property for a Suisun Marsh interpretive center at Fairfield (property has been purchased, but planning has not been active in many years);
- DFG's Pacific Flyway Center at the Yolo Causeway (being actively planned with a nonprofit partner);
- The Nature Conservancy Cosumnes River Preserve (actively in operation);
- Bay Model Visitor's Center in Sausalito (actively in operation).

Many other groups provide information on the Internet, through tours or programs in the schools. Some of these include the Bay Delta Consortium Online, Water Education Foundation, Delta Sierra California Regional Environmental Education Community, Project WET, San Joaquin Office of Education's Environmental Education Program, California Farm Water Coalition, San Francisco Estuary Project, Bay Nature Institute, The Bay Institute, Bay-Delta Center, Delta Ecotours and others. In addition, the delta has many local special interest museums, which contains material on some aspect of the life or the environment in the delta.

Many of the facilities and programs are run by nonprofit groups and need funding and coordination to be more effectively in educating the public about the delta.

For the public to better understand the problems and needs of the delta, further funding and infrastructure is needed for nonprofit organizations to complete work to build and maintain educational facilities and programs. Interpretive work of these facilities should be better coordinated. Finally, these groups and other agencies should focus on how to education residents who live outside the delta or Northern California, with an emphasis on those in the Central Valley and Southern California.

Clearly, the role of educational facilities should be expanded as a strategy, particularly in the work of the new conservancy.

Here is some suggested language for defining the work of the conservancy:

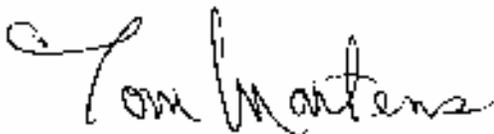
Section II, Page 56 (section defining the responsibilities of the conservancy).

- Play a leadership role in increasing the awareness of the Delta by creating a marketing and communication plan, funding publication of educational material, coordinating work of groups with educational facilities and providing grant funding for information and educational centers.

- Target printed material and electronic outreach to educate residents who live outside the Delta, with an emphasis on Southern California.
- Conduct a survey of awareness and perceptions of Californians on the Delta upon creation, and then provide an update every five years.
- Actively provide grants to local government and nonprofit agencies for programs and projects for implementing the CDEW plan.
- Place a high priority on funding projects that create Delta infrastructure that improves the environment, while expand the capacity of area to attract visitors.
- Assume the lead role in implementing the strategies in the Delta Boating Needs Assessment from the DPC;
- Assume the lead role in completing planning and implementing strategies for The Great California Trail System from the DPC;
- In cooperation with the California Travel and Tourism Commission, assess the feasibility of the promotion the California Delta as a separate region of the state.
- Create public private partnerships for streamlining the process for gaining approval and operation of land banks in the delta. Seek opportunities for promoting public-private partnerships for creation of land banks that return revenue for environmental projects in the delta.

Thank you for the opportunity to comments on the strategic plan.

Sincerely,

A handwritten signature in black ink that reads "Tom Martens". The signature is written in a cursive, flowing style.

Tom Martens
1107 Ninth St., Suite 340
Sacramento, CA. 95814
530-304-8557
E-mail: tmartens@dcn.org



The Good Fight

The Politics of Fishing
With Tom Martens

2008 Is the Year of the California Delta

2008 IS SHAPING UP to be the year of the California Delta, bringing with it a flood of legislative proposals, bills, hearings, scientific studies, meetings, and policy papers, some the size of books. When you add statewide ballot initiatives and lawsuits by fishery conservation groups and water districts to the mix, it almost takes a swami to figure it all out.

The reason for the hullabaloo over the Sacramento-San Joaquin Delta is an alarming decline in fish and aquatic life in the 738,000-acre estuary, the largest on the West Coast. The California Department of Fish and Game's midwater trawl survey last December showed that the young-of-the-year striped bass abundance index was 2, compared with 69 in 1997 and 2,266 in 1967. The overall striper index for 2007 was 82, compared with 568 in 1997 and 19,677 in 1967. The index is a relative number that reflects the population of a species and is derived from seining at sampling stations in the Delta.

The survey showed similar declines for the Delta smelt, American shad, splittails, threadfin shad, and longfin smelt, a species for which the index was 13 in 2007, compared with 690 in 1997 and 81,740 in 1967. (See the complete data set at www.delta.dfg.ca.gov/data/mwt/charts.asp.)

The sharp decline in fish numbers led the California Fish and Game Commission to name the longfin smelt as a candidate for study for listing as threatened or endangered under the California Endangered Species Act. At its meeting in San Diego, the commission also recommended expanding the period for reduced water-export pumping from the Delta during the time that the smelt are spawning in the spring, and ordered the DFG to monitor population numbers weekly. A petition asking for listing of the longfin smelt under the federal Endangered Species Act is also under review.

"Fisheries in the Delta have gone from a problem to a disaster," Berkeley's John Beuttler, of the California Sport Fishing Protection Alliance (CSPA), told a small group attending a panel at a recent

outdoor sports expo in Sacramento. "Fifty years of water management have left our fisheries in ruin."

This isn't the first time that fish numbers have declined. According to the Sacramento-based Water Education Foundation, a well-respected organization that produces user-friendly reports and videos on the Delta, commercial overfishing has devastated fish populations over the years, leading regulators to ban commercial fishing for white sturgeon in 1901, steelhead trout in 1927, striped bass in 1935, and American shad in 1957. Chinook salmon still are harvested commercially, but only in the ocean.

In a recent memo that was leaked to the press, federal officials noted an "impending crisis" in the Central Valley salmon stock, because only 90,000 spawners returned, compared with 800,000 fish coming back a few years ago. The memo added that 2,000 baby salmon returned to the Delta, compared to a healthy average of 40,000 fish.

These latest declines are probably not due to overharvesting by sport or commercial anglers, but are the result of water diversions, declines in water quality, competition from invasive species, loss of spawning habitat from development, and other factors, some of which may not yet be known. "The Delta is being trashed, and we need to act," State Assembly Member Lois Wolk, D-Davis, told the expo gathering. "We need to restore the entire ecosystem, including the sport fishing and endangered species."

She warned those who attended the panel discussion that fixing the Delta's problems would not be easy. "There is no magic-bullet solution to the problems," said Wolk.

The Delta is a 1,000-mile maze of levees, rivers, canals, and sloughs that an estimated 25 percent of the state's warm-water and anadromous species and 80 percent of the state's commercial species use for breeding or as a migratory path. More than two-thirds of California's population relies on the Delta for drinking water, 7,000 agencies and individuals divert its

water, and the area is regulated by some 220 agencies.

American River Poaching

In an effort to protect sport fish in the American River, a major spawning and rearing area for Delta species, members of the Northern California Council of the Federation of Fly Fishers (NCCFFF) asked the California Fish and Game Commission to issue an emergency regulation banning fishing on a 26-mile stretch of the river during February and March to protect spawning steelhead from poachers.

In a letter to the commission, NCCFFF conservation leader, longtime American River angler, and Fair Oaks resident Dave Ford said that flows below 1,000 cubic feet per second during some late winter and spring months make the fish vulnerable to snagging, a practice that is illegal under state fish-and-game laws. Fish managers estimate that anglers spent some 256,000 hours fishing the river last year.

"We make this request with a heavy heart," Ford said in the letter. "If we are going to save the wild fish, we have to do it."

Following a hearing, the commission by a three-to-zero vote rejected the proposal for the ban, following a report by the DFG that monitoring data showed that the illegal snagging has no effect on the health of the fishery. DFG biologists estimated that, based on data from steelhead punch cards, only 22 wild fish might be saved, not enough to warrant a closure.

Commissioners directed the DFG staff to seek ways to increase warden patrols on the stretch of the American from Nimbus Dam to the confluence with the Sacramento River by seeking funds from federal agencies. Governor Arnold Schwarzenegger's proposed 2008-9 budget calls for cutting 34 game warden positions.

Prospect Island Fish Kill

If the data on the decline of the Delta fishery were not gloomy enough, federal wildlife managers killed thousands of fish when draining Prospect Island, which is located northwest of Rio Vista. Volunteer

anglers saved 1,831 striped bass and 6,000 other fish by netting and hauling them to the Sacramento River, but were unhappy with the lack of fish-saving response and cooperation of the public agencies.

The massive fish kill occurred last November as the U.S. Bureau of Reclamation drained the flooded island to get it ready for sale. Before the draining started, the DFG reviewed the project and determined it would have not have an impact on fish such as striped bass and Delta smelt, a species listed as threatened in 1983 under the state and federal Endangered Species Acts.

"Everyone is pointing fingers as to why things went wrong," said Lois Wolk, chair of the Assembly Water, Parks, and Wildlife Committee, which held a hearing on the kill. Wolk has introduced a bill that will require public agencies to have contingency plans for rescuing fish for projects such as the one at Prospect Island.

"Tens of thousands of fish were stranded and died," said Wolk in a summary of the legislation. "A frantic rescue effort to salvage some of the remaining fish, initiated by local fishermen and sport fishing organizations, resulted in the rescue of several thousand fish. Without the action of the fishermen, no fish would have survived."

Wolk's Assembly Bill 1806 requires that state fish-and-game managers develop plans for fish that are "at risk in the event of a disaster," help train fish-rescue volunteers, coordinate rescue work with local agencies, allow the public to comment on the plans, and expedite permits for the work. In late February, Wolk also introduced Assembly Bill 2502, which authorizes the California Department of Parks and Recreation to purchase Liberty and Prospect islands and another Delta area in order to create and manage the Delta Ecological Restoration and Recreation Area.

Delta Vision Recommendations

Introduction of the Prospect Island legislation comes just months after Gover-

nor Arnold Schwarzenegger's Delta Vision panel issued a 71-page report with general guidelines on what is needed to protect and restore the Delta. "For the past 150 years, Californians have viewed the Delta as a place to farm or fish and as a source of water for use elsewhere," said the report. "We gave little thought to the environmental consequences of these actions."

Led by a well-respected former member of the state assembly and mayor of Sacramento, Phil Isenberg, the seven-member panel, which gets advice from a 43-member stakeholder group that includes a sport-fishing representative, studied issues, held meetings and hearings, and last November issued a report with 12 recommendations for protecting and restoring the Delta.

The first recommendation suggests a major shift from previous Delta resource-management policies. "The Delta ecosystem and reliable water supply for California are the primary, co-equal goals for sustainable management of the Delta," the recommendation said. For years, fishery protection advocates have argued that water flows and diversions have been a higher priority in the way the state manages water in the Delta. Environmentalists claim that a record 7 million acre-feet of water was diverted from the Delta last year. That has resulted in the San Joaquin River flowing backward and likely contributed to the decline in fish populations.

Water exports from the state and federal pumping facilities have increased in recent years, coinciding with drops in fish numbers. Following a lawsuit by fishery and conservation groups, a judge last November ordered a temporary shutdown of the pumps and reduced water exports to protect the fish.

"The Delta is critically important to California, but cannot be maintained as we know and use it today," says the Delta Vision panel's report. "Its unique character and its capacity to serve California are threatened by diversions of water, urbanization, flood and seismic risks and invasive species."

The visioning group's 12 recommendations include the following.

Special Status. "The California Delta is a unique and valued area, warranting recognition and special legal status from the State of California." If a grant of special status is implemented, the Delta would be given the same priority for protection as the California coast, the Sierra Nevada, and Lake Tahoe — all areas with state-authorized conservancies, which are well-funded state agencies charged with protecting natural resources.

A Public Trust. "The foundation for policymaking about California water resources must be the longstanding constitutional principles of 'reasonable use' and 'public trust'; these principles are particularly important and applicable to the Delta." Setting a precedent at Mono Lake, fish groups such as California Trout have successfully sued to force agencies to protect fish under the public trust doctrine, a common-law principle that protects resources for the benefit of the public.

Reduced Diversions. "A revitalized Delta ecosystem will require reduced diversions — or changes in patterns and timing of those diversions upstream, within the Delta, and export from the Delta — at critical times." This recommendation challenges state policies in recent years that said increasing diversions would have no effect on the fishery, a practice that has been successfully challenged in court recently by conservation organizations.

Major Investment. "Major investments in the California Delta and the statewide water management system must integrate and be consistent with the specific policies of this vision. In particular, these strategic investments must strengthen selected levees, improve floodplain management, and improve water circulation and quality." Because of recently passed statewide bond initiatives, the state has a fair amount of money available to fix levees, but upcoming budget reductions will leave few general funds for regulatory or fix-up operations in the Delta.

Boundaries and Governance. "The current boundaries and governance system of the Delta must be changed. It is essential to have an independent body with authority to achieve the co-equal goals of ecosystem revitalization and adequate water supply for California — while also recognizing the importance of the Delta as a unique and valued area. This body must have secure funding and the ability to approve spending, planning, and water export levels." This will likely be one of the more controversial recommendations, because the Delta boundaries are fixed in law and any rejiggering of governance by public agencies will trigger major political fights and bureaucratic turf battles.

A Peripheral Canal. "New facilities for conveyance and storage, and better linkage between the two, are needed to better manage California's water resources for both the estuary and exports." The report was careful not to mention the highly charged "P word" — the Peripheral Canal, a transport system that would route water around the Delta and that state voters overwhelmingly rejected in 1982. Instead,

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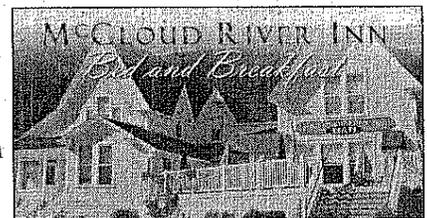
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the report suggests studying one alternative that routes water around the Delta through existing waterways and another that involves piping water around the Delta (one that follows much the same route of the Peripheral Canal and is being called the "Peripheral Pipe").

The vision panel will work until October to develop detailed strategies for achieving its vision. As is typical in Delta planning, water and fishery advocates and

even the governor are not waiting for the vision group's strategic planning work to be completed. Governor Schwarzenegger announced that he supports funding proposals to expand the capacity of dams and to divert water around the Delta with the revised version of the Peripheral Canal.

Statewide Ballot Initiatives

Voters could have another chance to decide the Delta's future in November with several statewide ballot initiatives. The California Chamber of Commerce has won approval from the California attorney general for an initiative that would ask voters in November to approve an \$11.6 billion bond to pay for the Comprehensive Safe Drinking Water, Water Supply Reliability, and Delta Restoration Act of 2008. The chamber is still deciding whether to begin collecting the 433,971 signatures needed to qualify the initiative for the ballot. Chamber officials are trying to get Governor Schwarzenegger and U.S. Senator Dianne Feinstein to support the measure.

Under the proposed initiative, \$2.2 billion will be given to the state Department of Water Resources (DWR) for a local-agency grant program for "water supply reliability" projects, \$500 million will be allocated to the DWR for new or expanded dams or groundwater storage and facilities to bypass the Delta, \$50 million will go to the DWR's fish and wildlife enhancement programs, and \$85 million will be allocated for the Department of Fish and Game to protect the Delta and water supplies from invasive species such as

Asian clams, zebra mussels, quagga mussels, and New Zealand mud snails.

The chamber and others tried to get a similar proposal approved for the state ballot by the state legislature, but the measure was rejected by the Democratic majority after opposition by environmental and fishery conservation groups.

The conservation groups opposing the chamber initiative instead favor one that is more oriented toward water conservation, rather than flow-bypass construction projects in the Delta. The conservation groups are supporting Senate Bill X2-2, introduced by Senator Don Perata, D-Oakland, which was approved by a senate committee and would ask voters to approve a \$6.8 billion Safe Drinking Water Act of 2008 bond that funds projects, but none that involve building around-the-Delta conveyances or new or expanded dams. The progress of the bill, which was introduced on September 19, 2007, has been relatively slow, and the bill will likely be substantially changed.

A related bill, Senator Perata's Senate Bill SBX2-1, would reallocate some \$4 billion in voter-approved bond funds to disaster-preparedness and flood-control projects, including many habitat-restoration projects in the Delta. This measure, which was approved by the state senate, is supported by environmentalists, but opposed by the DWR.

Senate Bill 27, introduced by Senator Joe Simitian, D-Palo Alto, directs the California resources secretary to begin implementing a list of noncontroversial Delta flood-control protection and restoration projects that the vision process has identified, the so-called "no regrets" projects. This measure has been stuck in committee with no movement since last June.

Who Should Govern the Delta?

Delta Vision planners and their advisory board will spend a good part of 2008 wrestling with the issues of what kind of state agency or agencies should protect and restore the fragile estuary. Most agree that having an environmentally sensitive and significant area managed by 220 public agencies is not ideal. "When everybody's in charge, then nobody's in charge," Assembly Member Wolk said at the expo forum, adding that her staff is working on a package of bills to deal with Delta governance and other issues. These bills will likely have been introduced by February 22, according to the legislative schedule.

Although still in draft stage at the time of this writing, the legislative package is expected to deal with several thorny Delta governance issues:

A New Regulatory Agency. Some lawmakers and the vision report have suggested creating a single Delta "super-agency" that would regulate all development and water issues within the region. Such a proposal would be controversial, because it would involve creating a new state regulatory bureaucracy and would require determining what to do with existing agencies, such as the DWR, which controls and manages water flows, and the 15-year-old Delta Protection Commission, which has a quasi-regulatory role in the Delta and a 19-member local governing board.

A State Conservancy. Many fishery advocates favor creating a Delta conservancy, a new state agency placed in charge of projects and programs designed to protect and improve natural resources — one similar to the Sierra Nevada Conservancy, the Tahoe Conservancy, and the California Coastal Conservancy. Senate Bill 1108, introduced on January 16, 2008, by Senator Mike Machado, D-Stockton, would create a Sacramento-San Joaquin Delta Conservancy Program as a division of the state Coastal Conservancy, which operates a wide range of programs to protect the Pacific coast. That bill is pending in committee.

In late February, Assembly Member Mary Salas, D-Chula Vista, introduced Assembly Bill 2903, which would create a new state agency in the form of the Sacramento-San Joaquin Delta Conservancy.

The Future of CALFED. On January 15, 2008, Senate Bill 1102 was introduced by Senator Machado and Senator Darrell Steinberg, D-Sacramento, to eliminate the California Bay-Delta Authority, which was created to implement CALFED programs.

CALFED, a consortium of state and federal agencies that was created following the 1994 Bay-Delta Accord, has written a 6,500-page, 30-year plan and has been criticized for spending millions on restoration projects that have shown marginal results for the Delta. CALFED will soon publish a report on the recently completed Stage 1 of the plan, which was estimated to cost \$8 billion to implement.

Reflecting a lack of confidence at the federal level, Congress has reduced CALFED funding in recent years and is reviewing a proposed \$8.1 million reduction in the president's 2008-9 budget.

Delta Lawsuits

As the plethora of current and soon to be introduced legislation snakes its way through the state legislature in 2008, fishery conservation groups will be working to

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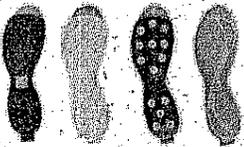
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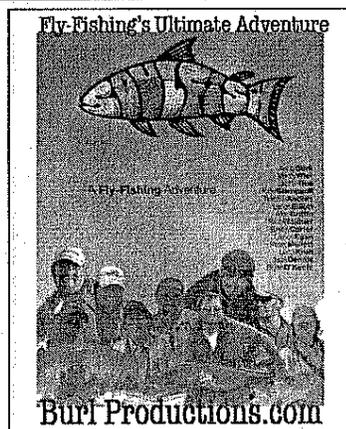
convert favorable legal decisions into rules that provide more water for fish and that keep fish from being killed in the massive Delta water-export pumps. "Hundreds of millions of fish move into the pumps each year," said the CSPA's Beuttler, whose group won a legal decision favoring fish and is part of a Water for Fish Campaign, a coalition of over 60 companies and fishing organizations, including the Federation of Fly Fishers, that has been gathering petition signatures to urge lawmakers to protect the Delta. (See www.water4fish.org.)

For years, fishery activists have argued that these diversions have increased and that fish get trapped in the pumps. Last

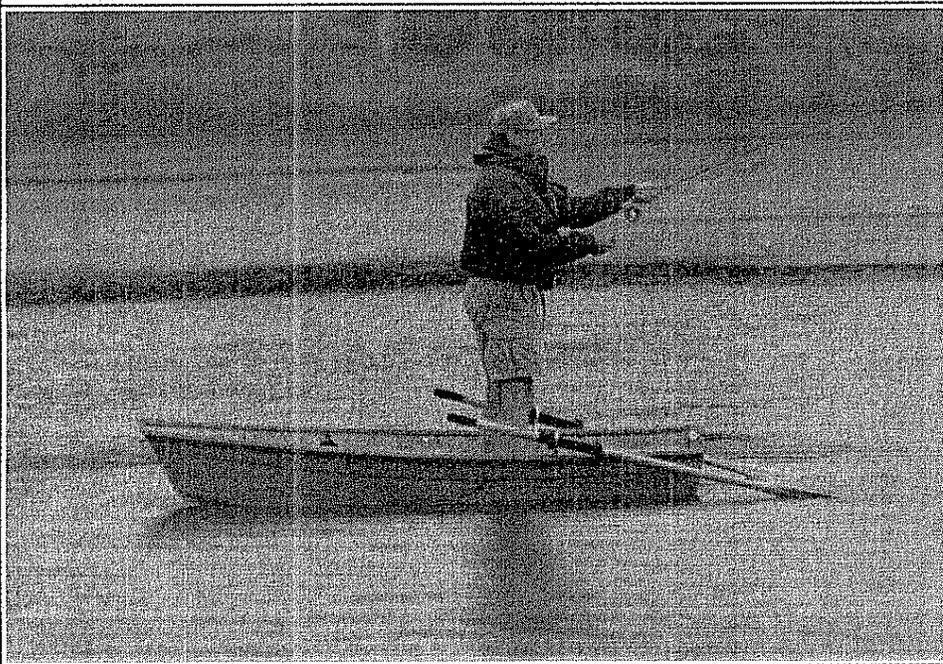
September, U.S. District Judge Oliver W. Wanger agreed with environmentalists and ordered cuts in Delta water exports to protect the Delta smelt. The decision followed a lawsuit that was filed by environmental groups, including the Natural Resource Defense Council, the Environmental Defense Fund, the CSPA, and others. State and federal officials are considering how to cut the water deliveries, which could amount to as much as a 37 percent reduction — a loss of enough water to supply four million households. A hearing has been set for July on making the temporary court order permanent.

The environmental groups have asked the judge to cancel long-term water contracts, which set how much Delta water is delivered to farmers and urban areas. That petition was rejected on a legal technicality, but is likely to be refiled.

In other legal action, a group of small Kern County water districts has sued the Department of Fish and Game, arguing that the agency's policies are responsible for the decline of the Delta smelt and other fish populations in the Delta because they maintain the population of voracious striped bass for the benefit of anglers. Another group is challenging federal plans to restore salmon populations.



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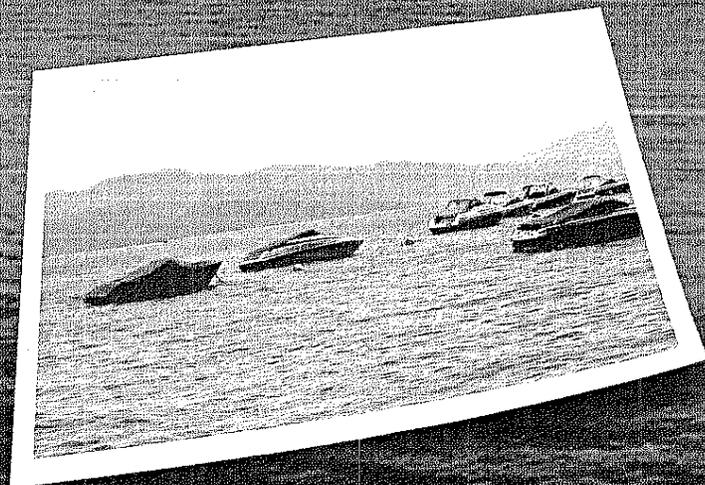
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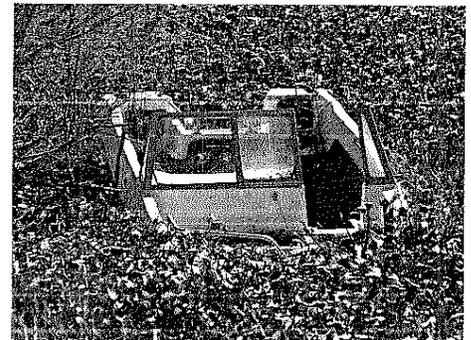


**Fall Is
The Season
to Get
Boats Off
Buoys**

See page 2

California Delta County Seeks To Expand Pioneering Abandoned Boat Program

By Tom Martens



Sergeant Doug Powell has an eye for spotting when a boat turns from being derelict to becoming abandoned in the California Delta.

"See that wooden boat over there?" asked Powell of the Contra Costa County Sheriff's Department marine unit during a cruise in a patrol boat to take a look at the growing problems caused by abandoned vessels. "The one that's listing? We'll be watching that one."

The "we" refers to Powell's officers -- four full time, four part time and six reserve -- who regularly patrol their county's portion of the Sacramento-San Joaquin Delta, 700-square-miles of levees, canals and tule marshes generally bordered by the cities of Sacramento on the north, Antioch on the west, Stockton on the east and Tracy on the south.

The delta is known as a boating paradise; its waters are hugely popular.

According to a year old California Delta Vision report, some 186,000 boats use the delta each year, with an average of nearly three persons along on each trip. These boaters have been a boon to delta businesses and its 100 marinas that provide 11,000 berths.

But there's a growing blight in paradise caused by the number of abandoned vessels; a just-released Contra Costa County Grand Jury report called the area an "aquatic junkyard."

The county's jurisdiction consists of 200 miles of waterways and shoreline in the western portion of the delta.

"Contra Costa County waterways and shorelines are dotted with scores of abandoned docks and pilings, junk, and

debris," according to the 2007-08 grand jury report. "These waterways are important to the county and the state, not only because they are the source of drinking and irrigation water for millions of the state's citizens, but because they also offer fishing and recreational opportunities."

Illustrated with graphic photographs, the report documents hundreds of rotting hulks of boats that are abandoned along the shore, in the tules, along the levees, adjacent to multimillion dollar marinas or deteriorating on the bottom of waterways.

Nobody knows how many boats have been abandoned in the five counties that have jurisdiction in the delta or how much they contribute to the decline in water quality.

continued

The boat tour with Powell of the Contra Costa portion of the delta revealed the extent and complexity of the suspected environmental problems resulting from abandoned, questionable or illegal boat use.

The problems result not only from abandoned recreational and commercial vessels, according to Powell, but also from pollution such as raw sewage being dumped into waters from those living illegally on derelict boats.

The abandoned recreational boats were easy to find on the trip aboard the marine patrol's 23-foot-long Alamar ridged hull inflatable rescue boat. There was a rotting abandoned sailboat lying on its side in the tules at Dutch Slough. There was a partially submerged cabin cruiser that was about to break up in a slough near Quimby Island. There was a houseboat rammed against the rocks at Old River. Many of these boats are only a storm away from being broken apart, dumping gasoline and diesel fuel, oil, solvents and batteries into the water.

The area at Fisherman's Cut between the San Joaquin River and Frank's Tract is a burial ground for abandoned commercial boats — tugs, barges, cranes, schooners, fishing boats and more.

If that isn't bad enough, the tour provided an eye-opening glimpse at an even bigger potential environmental problem — people living on a vast variety of vessels with no evident means of capturing or properly disposing of sewage and other waste. In Old River south of Frank's Tract, Powell's boat glided by an aging U.S. Navy barge that was probably purchased for peanuts at a surplus sale and on which someone had plopped a house. Another person was living on an ancient wooden cabin cruiser sitting on a mud flat and cocked at a 45 degree angle.

The abandoned vessel problem is not restricted only to Contra Costa County:

- In the canal at Hog Island near Stockton in San Joaquin County, someone has anchored a massive derelict barge and the ghostly looking hull of an abandoned ferry with its windows smashed out.
- In Sacramento County, there is a big double deck houseboat settled on its side in the tules at 7 Mile Slough.
- In Solano County in the Sacramento River near Rio Vista, someone has abandoned a cruise ship and ferry.
- Near the flashy, well-kept, family-owned marinas on the Delta Loop near Isleton, someone has abandoned a runabout in a slough that has grown over with invasive plants.
- Someone has abandoned a houseboat in the Sacramento River at Walnut Grove, just up river from the office of the Delta Protection Commission, which is in charge of protecting the delta environment.



For 21 years, Contra Costa County's supervisors and agencies have been the driving force in improving the capacity of law enforcement and health officials to deal with these problem boats in their portion of the delta.

"Back when work started, abandoning a boat was an infraction," said Powell. "And the fine was less than a parking ticket. Abandoning a boat and paying the fine was much cheaper than getting rid of it. We just didn't have the tools for proper enforcement."

In various state and local legislative efforts that were spearheaded by state and local agencies with the help of an Abandoned Vessel Advisory Committee, laws and regulations were changed to help them tackle the problem:

MODEL SANITATION ORDINANCE — Contra Costa County created a sanitation and mooring ordinance that allows law enforcement officials to inspect and remove polluting live-aboard vessels. That ordinance has become the model for efforts in other counties with delta jurisdictions.

BOAT REMOVAL LIMITS — The process has been streamlined for officers to remove an abandoned vessel that has a value of less than \$2,000. Under the old rules, officers were able to quickly remove only those vessels with a value of under \$300.

MAKING OWNERS PAY — Officers have started aggressively enforcing a law that says registered owners of abandoned vessels are responsible for the cost of removal and disposal.

INCREASED PENALTIES — Fines have been increased for illegally abandoning a vessel to a minimum of \$500 and a maximum of \$3,000.

REDUCED WAITING PERIOD — The time that enforcement agencies must wait before removing and disposing an abandoned vessel has been reduced from 90 to 45 days.

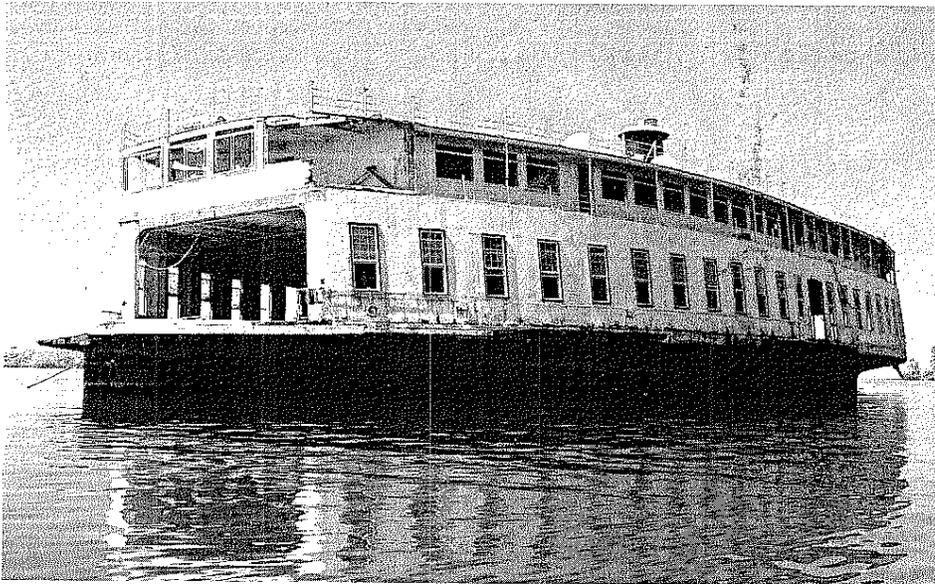
TOWING RESTRICTIONS — Restrictions have been eased to allow enforcement officials to tow a vessel with expired registration off the water.

ABANDONED BOAT FUND — In 1997, the California Department of Boating and Waterways created its Abandoned Watercraft Abatement Fund (AWAF), which has been making \$500,000 available each year to make grants to public agencies to pay to remove abandoned recreational boats or navigational hazards. The program receives its funding from fees on boat registration and the sale of gas. Agencies must provide a 10 percent match in order to receive a grant, and the funds cannot be used to remove commercial vessels.

Using the AWAF funds, Contra Costa County has removed 88 abandoned boats in the past three years. Since 1987, the officers and their community partners have removed and hauled to the dump 300 abandoned vessels ranging from busted up aluminum fishing vessels, to sailboats that have been run aground, to rotting hulks of wooden cabin cruisers and everything else in between. With funds provided by the county deputies built a trailer with the capacity to haul a 40-foot-long boat out of the water.

"Having a contractor remove a 40 foot abandoned boat would cost about \$8,000," Powell said. "With the trailer, we can remove the boat for about \$400 to \$500." He said the program has benefited greatly from the generosity of the local waste disposal facility.

Over in Sacramento County, budget constraints have prevented deputies from



applying for a state grant this year to remove 25 abandoned boats that have been identified and photographed. Last year, the county received a \$57,000 AWAFF grant to remove a barge and pilings that were a navigational hazard in the Sacramento River.

"The county has a severe budget shortfall and has not been able to provide the 10 percent matching funds as required by the grant," said Sacramento County Sheriff's Department's Scott Maberry, who manages the abandoned vessel program that covers 300 miles of the delta's waterways. He estimated that it would cost \$108,000 to remove the boats, which would require a \$10,800 county match. "Without the match, we couldn't apply for the grant." That leaves Maberry and his deputies-- three full-time and six reserve --in the marine unit looking at photographs of the abandoned boats on their computer screens without being able to take action

In the meantime, Maberry will be helping gain passage of a new vessel sanitation ordinance that prohibits boaters from anchoring for more than 30 days and requires that they get a permit from the county, which is attempting to control transients and others living on boats who are polluting the waterways.

"We've been getting calls about the new sanitation ordinance," said Maberry. "It is not our intention to run off regular people who are boating. I am trying to protect the river and make it a safer place for boaters. Nobody wants to swim in the river with oil, fuel and raw sewage."

To the south, in San Joaquin County the Board of Supervisors updated its ordinances for marine areas last January and they are being used to remove several problem boaters from the delta, according to Sgt. Sam Malcolm of the San Joaquin County Sheriff's Department,

which patrols 55 miles of waterways.

"The ordinance specifies the length of time folks can stay on the water without being at a marina or a dock," said Malcolm. It's been well received. We've only cited a couple of people."

As part of its delta improvement, the seven officers who work on the delta have removed some 100 abandoned vessels over the past three years.

Twenty seven derelict boats were removed last year with funds from a \$180,000 AWAFF grant, according to Malcolm, who added that another 12 are in the process of being removed.

"These are boats that range from a 50 foot houseboat to runabouts," said Malcolm, adding that abandoned commercial boats are not a large problem in the county's jurisdiction.

Over in Solano County, Sgt. Lonny Bubak, who heads the five-person Solano County Sheriff's Department marine patrol, said his staff has applied for a first ever 40,000 AWAFF grant to remove some 10 abandoned runabouts.

Operating from three patrol boats and two personal watercraft, the county's marine

officers patrol some 150 miles of the county's waterways including a stretch of the Sacramento River on the western portion of the delta.

"We haven't applied for grants in the past," said Bubak, "because we couldn't come up with the matching funds." County supervisors have agreed to provide the match, so he is hopeful that he will soon be able to hire a salvage company to remove and dispose of the derelict vessels.

He said the county's lawyers are dealing with the issue of how to remove two massive commercial boats that show up at Horseshoe Bend on the Sacramento River. One is 300-foot-long cruise ship, Bubak said, and the other is a 200-foot-long ferry.

Bubak added that a new county law has been used to begin to deal with a limited problem caused by people living illegally on boats in the delta.

Patterned after the Contra Costa County law, Solano County adopted an ordinance last May which limits boaters to anchoring their vessels to 96 hours.

"We're not targeting those who want to spend a week on the delta," he said. "But people like one fellow who's been living on boats he's collected for 10 years now. We would like them to get the same accommodations as everyone else -- in a nice marina with sewage."

While law enforcement officials like Bubak and others wrestle with removing the boats, others are working to keep them from being abandoned.

At the capitol, the State Assembly has passed Assembly Bill 1950, which would create a "Surrendered Vessels Program" where an owner could donate an aging vessel to public agencies for disposal.

"The author argues there is a growing problem of derelict vessels being abandoned in the state's waterways," said a committee report on AB-1950, which was authored by State Assembly Member Ted Lieu,

continued



D-El Segundo. "Owners dump or abandon these vessels rather than pay the sometimes high cost of legal disposal."

If passed and signed into law, the state boating and waterways agency would manage and use abandoned boat funds to pay for the program, which would be run by local agencies. The measure is pending in a Senate committee.

AB-1950 would also increase the minimum fine for illegally abandoning a boat from \$500 to \$1,000 and require monitoring for the program's effectiveness.

If passed and signed into law, the legislation would represent implementation of the final recommendation in a four year old study by state boating officials and an advisory committee on ways to begin to solve the abandoned vessel problem that resulted in a major overhaul of the laws.

Despite that reform effort, the Contra Costa County Grand Jury report says that the "aquatic junkyard" still remains in a county that has devoted significant financial resources to solving the problem.

"County enforcement of laws pertaining to these waterways is, at best, marginal," said the report. "This has caused numerous problems. Recreational and commercial vessels abandoned over the years are a threat to navigation and water quality. Trash of all kinds has been left in or adjacent to the waterways. Houses and docks have been built in locations not zoned for habitation. There are also abandoned, dilapidated commercial buildings and docks along the water's edge and many thousands of aging, creosote-treated pilings."

In its report, the grand jury suggested that fixing the problem would be good for the environment and the recreational economy.

In fact, boaters have said that they prefer clean, uncluttered water in the delta. In a survey of boaters conducted by the California Department of Boating and Waterways, users cited the poor water quality as a major factor in determining whether they will recreate in the delta.

"Both large and small-boat owners cited poor water quality as a significant impediment to using Delta waters," according to the survey results. "These perceptions are, in part, attributable to the basic conditions/processes occurring in the delta, such as peat soils and estuarine conditions. But surveyed boaters also identified improper disposal of boat wastes, reduced water flows from water diversions, invasive aquatic plants, and obstacles and debris in water as significant water quality concerns in the delta. Illegal dumping and abandoned vessels throughout the delta, some quite large, contribute to the delta's water quality degradation."

In its report, the grand jury recommended that the Contra Costa County Board of Supervisors create a task force of public officials and stakeholders to write a delta cleanup plan that includes the following:

- Identify all agencies that are responsible for monitoring and addressing the problems of abandoned recreational and commercial boats, navigational hazards and health and water quality issues;
- Identify all sources of funding available to solve the problems;
- Study the feasibility of creating a

nonprofit organization to focus on solving the problem;

- Investigate the feasibility of creating a program where citizens and businesses adopt waterway sections, similar to a program on state highways.

- Study the feasibility of creating a telephone hot line for citizens to report abandoned boats and aquatic dump sites.

In addition, the report suggests that the supervisors and enforcement officers advocate for changes in state law and funding to deal with the issue of abandoned commercial boats.

