

- Preliminary staff comments on the first draft: “Delta Vision Strategic Plan”

Summary

On June 18, 2008, the BRTF released its first draft report entitled “Delta Vision Strategic Plan” (Strategic Plan) intended to direct implementation of its long-term and near-term recommendations. This Board report presents staff’s preliminary comments.

Attachments

[Attachment 1: Preliminary Staff Comments on the Draft “Delta Vision Strategic Plan”](#)

Detailed Report

On January 29, 2008, the Governor’s Delta Vision Blue Ribbon Task Force (BRTF) published “Our Vision for the California Delta” that recommended twelve long-term and seven near-term actions in response to the Governor’s executive order S-17-06. The BRTF was created to develop a durable vision for sustainable management of the Delta” with the goal of “...managing the Delta over the long term to restore and maintain identified functions and values that determined to be important to the environmental quality of the Delta and the economic and social well-being of the people of the state.” On June 18, 2008, the BRTF released its first draft report entitled “Delta Vision Strategic Plan” (Strategic Plan) intended to direct implementation of its long-term and near-term recommendations. This report has been distributed to the Board and hard copies can be provided by the Board Secretary.

Staff Evaluation of the first draft “Delta Vision Strategic Plan”

The Strategic Plan generally addresses a balanced mix of policy changes and physical actions that can achieve the Vision for the Sacramento-San Joaquin Delta. Staff has provided its preliminary comments in [Attachment 1](#). There are substantive concerns over specific details (or details to be developed in many instances), and many proposed concepts need to be thoroughly detailed and scrutinized. Overall, the Strategic Plan’s fundamental and critical conclusions are consistent with Metropolitan’s board policies and support the position if California is to secure the Delta ecosystem and the state’s water supply in a coordinated and compatible fashion, physical changes in the Delta landscape as well as major statewide investments and changes in the water conveyance, storage, and management systems are crucial.

Background

The strategic plan was the result of the input of a wide range of stakeholders (45 members represented by public, private, and environmental interests in the Delta) and four work groups (Governance and finance, Delta ecosystem as a part of a healthy estuary, water supply and reliability, and Delta as a place).

Work group primary goals:

- Governance and Finance – Develop a refined governance proposal that considers alternative proposals from stakeholders;
- Delta Ecosystem as a Part of a Healthy Estuary – Define a conceptual ecosystem restoration plan;
- Water Supply and Reliability – Actions which can improve local water supply reliability, promote better data gathering to assist water management and integrate water quality concerns for consumptive uses; and
- Delta as a Place – Focus on land use and related issues surrounding the desire to support the cultural and economic integrity of the Delta region.

Board Report (Preliminary staff comments on the first draft: “Delta Vision Strategic Plan”)

Over the past six months, the work groups have been meeting individually and in some cases jointly to develop potential integrated strategies. The bulk of their work has been completed and input provided to the BRTF at its monthly meetings since February 2008. Work group recommendations presented to the Task Force did not necessarily constitute consensus of the members of the work groups, and in some instances a diverse number of ideas were forwarded to the BRTF for policy consideration.

This is the first of three planned draft versions to be released over the next several months, ultimately resulting in the final report due in October 2008.

Key Elements of the Draft Strategic Plan:

- Create a governance structure for protecting the co-equal values identified in the Task Force’s Vision document;
- Enhance the existing Delta Protection Commission;
- Develop a science-based adaptive management program;
- Develop a legally binding California Delta Ecosystem and Water Plan;
- Completion of the Bay Delta Conservation Plan process in achieving important components of the Delta Vision’s plan for a resilient and regenerated California Delta ecosystem and increased reliability of water supply;
- Implement the near-term Middle River conveyance, as recommended by Delta Vision Stakeholder Coordination Group;
- Create a dual conveyance system for the Delta to optimize capture of wet-period flows;
- Achieve a National Heritage Area designation from the federal government;
- Create a multi-unit California Delta State Recreation Area;
- Create a Delta-specific emergency response strategy; and
- Immediate implementation of a series of near-term actions identified in the Task Force’s January 2008 Vision document.

Preliminary Staff Comments on the Draft "Delta Vision Strategic Plan"

The Strategic Plan report is organized into an introduction and four topic areas (Governance and Finance, Ecosystem, Water Supply Reliability, and The Delta as a Place). For each topic area are identified goals, performance strategy measures by which to assess progress toward the goals, preliminary performance targets to be achieved by 2020, 2040 and 2060, and actions that the Administration or Legislature can implement as part of the recommended strategies to achieve the goals.

Introduction

- An introductory statement characterizes the urgency Delta situation as *"Too much is relying on a system that is far too fragile. The water system, the estuarine ecosystem, the Delta as a place, and much of the state's economy are vulnerable to intolerable levels of risk."* Furthermore, the current historic drought combined with court ordered operational limitations to protect Delta Smelt (likely to be continued to at least some degree by revised biological opinions into the future) has only exacerbated the stresses on a system already moving towards failure. There needs to have actions that would be pivotal in shaping and triggering the required policy and infrastructure investment response to avoid permanent and irreversible damage to the Delta's ecosystem, water supply, and the State's economic survival.
- The introduction needs more framing on how the necessary transition will move from the current "now" phase to the ultimate "Vision". Without new and/or improve infrastructure, the current system does not have the capacity to serve the co-equal values of ecosystem and water supply reliability. The future governance, conservation, ecosystem investment, etc. must be inextricably tied to commitments on major new storage and conveyance facilities.
- There needs to be more robust acknowledge of the Bay Delta Conservation Plan (BDCP) in the introduction and a clear connection to the implementation of the Strategic Plan, at least with respect to conservation measures related to the Delta ecosystem and water management.
- While identified as a "key driver" of change, climate change should be highlighted more aggressively in the introduction as well, considering the implications for the environment and water supply as implementation of the Vision moves into the mid-century. Loss of snowpack, increased storm intensity, more flood events, habitat impacts and species dislocation and, crop shifting, all present incredible challenges to the state's water system. There are many efforts underway addressing issues related to carbon footprints and general adaptation capabilities. But the Strategic Plan should be more emphatic in how it is responsive to those challenges as well.

Governance and Finance Comments

- The intent behind the "Governance and Finance" proposals to improve accountability for Delta management while preserving existing authorities as much as possible as stated by: *"Comprehensive and effective governance need not mean centralized governance....Striking the right balance between governmental and private structures; between local, regional and state interests; and between regulatory and market-based incentives are all keys to a successful governance structure."*

Efforts are being made to create a unified water agency view on governance issues. There are concerns whether the proposed structure contains the right accountability and there are concerns regarding decision making capacity, expanding bureaucracy creating additional layers (with associated costs in both time and money) as obstacles to good public policy outcomes.

- The final Strategic Plan must meticulously identify scope and appointment process of the proposed (Delta Conservancy, a Delta Science and Engineering Board, a permanent Public Advisory Group, and a California Water Utility) and existing institutions (Delta Protection Commission).

- More details are needed on how the proposed Delta Conservancy will be managed, projects selected, and funding be secured and spent, etc.
- More details are needed for the formulation of a proposed California Water Utility. Generally, the creation of this body should manage and own the State Water Project (SWP), with eventual integration of the federal Central Valley Project (CVP). There are financial issues, unique to each project, which will be complex.
- The primary focus in the proposed governance structure is the California Delta Ecosystem and Water (CDEW) Council. There is agreement with the foundational principle: *“The Council would not subsume the authority of existing agencies....”* Some view the concept of developing a CDEW Plan and then exercising oversight (not control) to determine consistency is one that can be implemented in a workable manner. At the Task Force meeting last week, the idea of “consultation” was broached in discussion. Without dismissing the concept, there are concerns of duplication and, again, costs in time and money.
- It is unclear how the CDEW Plan’s water quality and flow standards would be developed consistent with the SWRCB’s federal Clean Water Act authorities, respecting California’s water rights law.
- Additional elaboration is needed in the Strategic Plan’s statement: *“This Strategic Plan expects that water required to support and revitalize the Delta will not be purchased but will be provided within [sic] California’s systems of water rights and constitutional principles of reasonable use and public trust.”*
- The basic formulation of Delta environmental water needs should be determined through a SWRCB Water Quality Control Plan process and implemented through a water rights proceeding.
- The Strategic Plan broadly supports CALFED financing principles, with “beneficiary pays” concept in particular. However, the Strategic Plan falls short of proposing all the necessary financing methods that will be needed to achieve the Plan itself. While the rationale for a fee on all diversions from the watershed appears justified, the proposed additional fee on water conveyed through or around the Delta needs to be explained and justified.

Revitalized the Delta Ecosystem

- The “Revitalize the Delta Ecosystem” chapter lays out concepts and issues consistent with Delta restoration program development and operational debates ongoing since the inception of the CALFED program. There are still differences of opinions between the timing and volume of flows for hypothesized ecosystem enhancements and the maintenance of reliable water deliveries of improved water quality. However, the Strategic Plan acknowledges that proposed infrastructure investments in near-term Delta actions, as well as storage and conveyance, are precursors for increasing system flexibility and thus creating more capacity to better manage the “Delta dilemma”. Nevertheless, the nexus between environmental goals and management and water operations needs to remain a central area of continued analysis, discussion and refinement.
- The Strategic Plan’s statement that *“the task for California today is to restore the underlying ecosystem structure, functions and processes....”* where determination of the impacts of all stressors disrupting the ecosystem is a welcome approach.
- As of now, the ecosystem performance targets presented in the Strategic Plan has not been substantiated with a level of technical rigor necessary for our support. Additionally, all performance targets need to have the baseline assumptions detailed to give perspectives for the targets. While we believe the focus of the targets generally make sense, the specifics – particularly related to flow relationships -- simply have not been accepted by a consensus of the experts involved.
- There’s agreement for the Strategic Plan’s statement that related operational changes *“should be further analyzed by the Science Program and the Science and Engineering Board for implementation.”* Additionally, it would be worthwhile to discuss the future focused nature of these targets, with results being sought in 2020 and beyond, and how activities and policies can help transition to more meaningful targets. Finally, the capacity to achieve these targets should be greatly enhanced when (if) new storage and conveyance facilities are brought on-line.

Water Supply Reliability

- The "Water Supply and Reliability" chapter clearly states the water supply challenge that California confronts:

"With millions more acre-feet of demand already being established throughout the Delta watershed, with millions more Californians expected in the coming decades, and with climate change altering the very engineering benchmarks around which the system was designed, the California water system as we have known it for the last half-century must evolve in fundamental ways if it is to continue serving the needs of our state....This does not mean compromising on reliability."

As outlined in the strategic plan, the primary means of transitioning to this requisite evolution will be a combination of infrastructure investments in storage and conveyance, along with a necessary intensification of the development of local supplies ("regional self-sufficiency") through enhancing groundwater management, continuing to increase conservation efforts, moving toward potable reuse and streamlining water transfer protocols.

- The Strategic Plan acknowledges that reliability, quality and volume of imported water supplies through the SWP and CVP are still necessary to undergird export agencies' water management portfolios.
- The Strategic Plan underscores the importance of the interrelationship of export supplies to ensuring local agency capability to invest in alternative supplies. Further, the language quoted in the Strategic Plan needs to read "capacity available in the 90's" not "quantities diverted". There were many instances in the 90's where water was available above water quality objectives and after meeting other regulatory needs (CVPIA requirements, etc.), there was no available storage. Since that time, new local and regional investments in storage has occurred and under similar circumstances such water could have been stored for benefit of consumptive uses and the environment.
- While there's support the Vision's and Strategic Plan's focus on pushing California's regional self-sufficiency envelope, the Strategic Plan concluded that it is still necessary to manage Delta diversions to achieve water supply reliability while improving ecosystem health in the Delta. We also cannot afford to adopt a strategy that puts off investment in conveyance and storage until all conservation and recycling efforts have been realized.
- There's strong support for Action 9.4: "*Create a dual conveyance system for the Delta designed to optimize capture of wet-period for flows.*" While the BDCP process will inform this action and questions to be analyzed related to sizing, number of intakes, operations, seismic and sea level rise resiliency, potential benefits to the ecosystem of periodically leaving a wet period flow in rivers as well as the potential benefits of pumping during drier periods to create more in-Delta water quality variability etc., the underlying premise of this action is imperative: "*...duality provides a wide array of opportunities to adaptively manage for Delta ecosystem health while flexibly shifting the location and timing of export water diversions to when [and] where least harmful to the environment.*" We similarly strongly support Actions 9.1 (reversible Middle River enhancements) and 9.6 (complete CALFED surface storage investigations).
- The Strategic Plan focuses greatly on promoting an intensification of conservation efforts, citing the Governor's recent call for a 20 percent per capita reduction by 2020. However, we caution that there are many significant issues related to implementation of such aggressive targets.
- There are concerns and questions with the Strategic Plan's notion of linking units of economic output to per capita water use, even if segregated by hydrologic region. The thinking behind this is not provided in the document and it raises troubling questions about comparing "apples to oranges." Macro economic trends (towards a service-based economy, aging populations, lower birth rates and persons per household, growth in inland regions etc.) could cause increases in per capita water use while all the right measures in conservation are being accomplished.
- California's water rights law does not hinge on economic value, but "reasonable and beneficial use." If circumstances warrant, the market induces the movement of water and money through water transfers partially reflecting the worth of different beneficial uses at that time. There are concerns that under the

proposed Strategic Plan’s performance measure, such a calculation would be applied to the water dedicated to fisheries and other environmental purposes and how the values would be determined. Economic values may be better used as indicators rather than objective targets as we do not fully understand the mechanisms nor have broad agreement on valuation of beneficial uses.

- Generally, though, when it comes to the SWRCB, we believe the Strategic Plan rightly states:

“California already possesses the constitutional and statutory principles necessary to manage the water system in ways envisioned here.... The challenge at hand for our state is to improve the application and effectiveness of the legal and institutional structures that already exist. The water rights system, and the information base that underlies it, should be strengthened and clarified so that water managers around the state can make sound long-range decisions that optimize supply reliability and regional self-sufficiency.”

The Delta as a Place

- The proposals related to “The Delta as a Place” is reasonable, targeted, and would contribute to achieving the Vision in a manner that also would provide value to the Delta region and the state.
- There’s agreement that the *“Delta’s value comes not just from the economic or infrastructure services that it provides to the state, but also from its intrinsic worth as a community with a distinct natural and cultural heritage.”* It is reasonable to propose the creation of a National Heritage Area, a multi-unit California Delta State Recreation Area and gateway/enterprise zones. Also, the Strategic Plan’s concepts related to transitioning some lands, particularly publically owned; to habitat, subsidence reversal, carbon sequestration and flood management all have merit.
- There is an internal inconsistency with respect to levee investments. The idea of a “strategic levee investment plan” resonates with us, both as to which levees should receive the most attention and that levees can provide different levels of protection depending upon location in the Delta and/or what is being protected behind them. Under Action 12.2 of the Strategic Plan, the recommendation that the subventions program should eventually seek to raise all levees to PL 84-99 standards is contradictory to the stated concept of relating the level of levee improvement to commensurate benefits. Our concern is that a risk-based economic analysis will show that PL 84-99 improvements on some islands are not economically justified. Analytical risk based benefit-cost analyses need to be performed and combined with social values/needs before levels of levee improvement standards are established to guide future land use decisions, flood control planning, and levee investment choices.

Proposed California Delta Ecosystem & Water Council

(Under the Draft Delta Vision Strategic Plan)

- A proposed five to seven member body appointed by the Governor (subject to Senate confirmation).
 - Five-year staggered terms.
 - Potential re-appointment for a maximum of one time.
 - Appointment process transparent to the public.
 - Proposed voting membership should include:
 - Legal;
 - Science & engineering;
 - Policy expertise; and
 - Governance expertise.
 - Proposed nine Ex-officio membership makeup:
 - Delta Protection Commission;
 - Delta Conservancy;
 - Department of Fish and Game;
 - Department of Water Resources;
 - State Water Resources Control Board;
 - Department of the Interior;
 - Environmental Protection Agency;
 - U.S. Army Corps of Engineers; and
 - National Oceanographic and Atmospheric Administration.

- Responsibilities and powers:
 - Develop and adopt a **California Delta Ecosystem and Water (CDEW) Plan**;
 - Update CDEW Plan every five years or whenever major changes in ecosystem function or water supply reliability require revisions;
 - Appoint members of the Delta Conservancy Governing Board;
 - Maintain a direct working relationship with the Delta Science Program and the Delta Science and Engineering Board to implement science support and adaptive management;
 - Receive and allocate funds raised under the **CDEW Act** and from other sources;
 - Receive and allocate funds raised by all bonds for improvements in the Delta ecosystem, water conveyance systems and scientific activities;

- Issue debt-financing mechanisms (including revenue bonds, tax anticipation notes and certificates of participation);
- Approve all water, railroad, utility and levee infrastructure projects in the legal Delta for conformity with the CDEW Plan;
- Delegate its authority to achieve the purposes of the CDEW Act;
- Ensure that the CDEW Plan and its implementation meet environmental justice criteria; and
- Empanel a **Public Advisory Group (PAG)**:
 - Staggered terms of two or three years;
 - Water users membership;
 - Environmental group membership;
 - Local Delta communities membership;
 - Agriculture membership;
 - Business membership;
 - Environmental justice advocate membership; and
 - Others