

- Bay-Delta Management Report

## Summary

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This report provides the status of various processes and activities related to the Bay-Delta.

## Detailed Report

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### Delta Operations

#### Endangered Species Act Consultations Regarding SWP and CVP Operations

On May 16, 2008, the Bureau of Reclamation (USBR) submitted its Biological Assessment (BA) to the United States Fish and Wildlife Service (USFWS) and National Marine Fisheries Service (NMFS). The BA describes the intended operation of the Central Valley Project and State Water Project, and the impacts of those operations on certain fish species listed under the Federal Endangered Species Act (ESA). Submission of the BA starts the formal consultation process under the ESA to obtain new Biological Opinions (BiOp) and take authorizations covering operation of the two projects. One BiOp, to be issued by the USFWS, will cover the Delta smelt. The other BiOp, to be issued by NMFS, will cover salmonid species. The USFWS has asked the USBR to supplement the BA with additional information and modeling which USBR is currently providing.

Judge Wanger's December 14, 2008 Order on Interim Remedies set a September 15, 2008 deadline for issuance of the new Delta smelt BiOp. However, the Federal Government recently asked Judge Wanger to push back the deadline for the Delta smelt BiOp to December 15, 2008 because of the complexity of the ESA consultation and the need to coordinate with NMFS. The plaintiffs in the delta smelt case have not opposed this request to extend the deadline for the Delta smelt BiOp. The current deadline for issuance of the salmon BiOp is March 2, 2009.

The water contractors' current strategy in the consultation is to propose (1) the Two-Gates Project; (2) habitat restoration projects; and (3) new operational triggers as a means to relax some of the export restrictions currently placed upon the projects under Judge Wanger's Order on Interim Remedies.

#### Two-Gates Fisheries Protection Plan

As a part of the interim remedy order of December 14, 2007, Judge Wanger imposed restrictions on reverse flows in the south Delta to ensure protection of the Delta smelt from entrainment. The interim remedy order details specific flow requirements for Delta smelt protection until a revised biological opinion is certified. The two gates fisheries protection plan involves the installation of new temporary gates in central Delta channels that will be operated in conjunction with flow requirements to reduce fish salvage and water supply restrictions at the State and Federal export facilities. The two-gates plan also improves water quality for in-Delta urban and agricultural interests. Metropolitan has been working with a team composed of the State Water Contractors, Central Valley Contractors and the Contra Costa Water District in performing hydrodynamic, particle analyses and operational studies to determine the optimal locations and operations of the barrier-gates. In addition, the project team is pursuing environmental documentation and implementation measures to achieve in-service operation of the gates as early as 2009.

#### Bay Delta Conservation Plan

The Bay Delta Conservation Plan (BDCCP) is continuing to develop conservation measures that consider a variety of key stressors to sensitive fish species and the delta ecosystem. Technical teams have been established that focus on habitat restoration, conveyance options (currently focused on a dual conveyance configuration that includes a new isolated conveyance component), other stressors (including toxics, invasive species, commercial and recreational fishing, and predation), and operational parameters. Potential conservation measures will be evaluated throughout the month of August and a draft Conservation Strategy report is expected by early Fall 2008. On a separate but interrelated track, on July 15, 2008, the Department of Water Resources (DWR) held a kick-off meeting for the Delta Habitat Conservation and Conveyance Program (DHCCP). The DHCCP

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provides the umbrella structure for the planning, design, and environmental permitting of an alternative intake conveyance facility.

### **2009 Water Transfers Activities**

#### DWR Drought Water Bank

On June 4, 2008, Governor Schwarzenegger proclaimed a statewide drought and issued Executive Order S-06-08 (Order) directing the DWR to facilitate water transfers this year and operate a 2009 Drought Water Bank (Bank). DWR has implemented similar Banks in 1991, 1992, 2001 and 2002 which cumulatively secured over 1,000,000 acre-feet of transfer supplies, of which Metropolitan purchased over 300,000 acre-feet.

Staff believes the proposed Bank provides the greatest potential to secure significant quantities of 2009 water transfer supplies in a cost effective manner because this approach would:

- Encourage more sellers to participate in the water market as part of a statewide solution to address the serious drought conditions and water delivery limitations that currently exist in California; and
- Focus buyers and sellers on a single statewide program to acquire north-of-the-Delta water transfer supplies on a willing partner basis consistent with the Governor's Order.

Since the Order was issued, Metropolitan staff and representatives from the State Water Project (SWP) and Central Valley Project (CVP) contractors provided the following recommendations to DWR:

- DWR should enter into direct purchase agreements with sellers and secondary purchase agreements with buyers, in a manner similar to DWR's role in securing and distributing Yuba Accord transfer supplies.
- The buyers should primarily consist of SWP and CVP contractors who would secure Bank supplies on behalf of their members. The buyers would commit to use the Bank exclusively for all 2009 one-year, north-of-the-Delta water transfers. Agencies that purchase water from SWP or CVP contractors would work through their SWP or CVP contractor.
- DWR should designate a small portion of the Bank supplies for buyers that are unable to purchase water supplies from a SWP or CVP contractor. The remaining Bank supplies would be divided between SWP and CVP contractors, who would be responsible for determining how the Bank supplies would be distributed to their respective customers.
- The recently issued EWA Supplemental EIR/S, which analyzed the environmental impacts of securing water transfer supplies to compensate for regulatory reductions to SWP and CVP water supplies, should be utilized to cover Bank activities.

DWR has not issued a detailed schedule for Bank activities, but following are anticipated Bank milestones over the next 6 months.

- August 2008 – Issue press release formally announcing Bank opening; Issue term sheets and initiate negotiations with sellers.
- September 2008 - December 2008 – Continue and conclude negotiations.
- December 2008 - Finalize environmental documentation and begin executing water purchase agreements.

Metropolitan's staff will continue to coordinate with DWR, and the SWP and CVP contractors to ensure the Bank is developed in a manner which provides the greatest opportunity for Metropolitan to secure 2009 water transfer supplies. Current discussions with DWR include: 1) seeking DWR concurrence with the proposed environmental compliance strategy discussed above; 2) determining the types of water supplies the Bank will purchase; and 3) developing water needs criteria to allocate Bank supplies, which would be applied if dry conditions continue and the demand for Bank water exceeds the amount of Bank supplies acquired. Metropolitan staff in cooperation with member agencies will develop a mechanism for its member agencies to secure water transfer supplies via

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Metropolitan's Bank purchases. Current discussions have focused on making available some of Metropolitan's Bank purchases to member agencies based on critical needs and willingness to pay and assume risk.

### South-of-the-Delta Opportunities

Staff is also investigating opportunities to purchase water transfer supplies south-of-the-Delta outside of the Drought Water Bank discussed above, which will likely focus on north-of-the-Delta transfers. In addition, staff is working with Metropolitan's San Joaquin Valley water storage partners to ensure returns of Metropolitan's previously stored water can be maximized in 2009, if necessary.

### **Other Recent Developments**

#### Delta Vision

The Delta Vision Blue Ribbon Task Force (BRTF) continued to work on development of the Delta Vision Strategic Plan. The second staff draft was released July 11 and discussed at the July 17-18 BRTF meeting. Key highlights of the draft include affirmation of ecosystem and water reliability as co-equal goals, recognition of the need to restore export supply reliability, support for dual conveyance and completion of storage evaluations, support for BDCP, finance plan, and creation of multi-part governance structure. Metropolitan staff is working with a coalition of water and business interests to submit comments on the draft strategic plan. The third draft of the strategic plan is expected to be released in mid-August.

#### Public Policy Institute of California Report

On July 17, the Public Policy Institute of California (PPIC) released its follow-up report on the Delta, *Comparing Futures for the Sacramento-San Joaquin Delta*. The new report builds on the findings of a 2007 PPIC study by the same team, which concluded that the need for a new Delta strategy is urgent. The report recommendations include strong support for an isolated conveyance facility as the most promising strategy for meeting co-equal long-term state environmental and economic objectives. In comments on the Delta Vision draft strategic plan, staff is urging the Delta Vision BRTF to seriously consider the findings of the PPIC report and build upon its analyses.

#### Sacramento Regional Wastewater Treatment Plant's (SRWTP) NDPEs Permit renewal

Metropolitan, along with a number of other water agencies that receive Delta water, have been actively involved in the NPDES Permit renewal process for SRWTP. The Central Valley Regional Water Board is back-logged on permit renewals. As a result, SRWTP is currently operating under a permit that was adopted in August 2000 and expired in August 2005. The Regional Board staff does not yet have a firm schedule for bringing a proposed permit to their Board for consideration, but they estimate that a draft permit might be completed early in 2009. There are a number of ongoing issues that will likely affect the permit, including the permitted discharge capacity in light of the CEQA litigation that ruled in favor of the water agencies and found Sacramento Regional's EIR for a proposed plant expansion inadequate for failing to analyze several water quality impacts (Sacramento Regional has appealed this decision). In addition, the State and Regional Boards are supporting on-going studies to evaluate the potential impacts of ammonia on delta smelt and primary productivity levels in the Delta.

#### State Water Resources Control Board Draft Strategic Workplan for Activities in the Bay-Delta Estuary

The State Water Resources Control Board (State Board) adopted its "Strategic Workplan for Activities in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary" on July 16, 2008. The Workplan is intended to prioritize the Delta-related activities of the State Board over the next five years and describe the sharing of responsibility among the State Board, the Regional Boards and other regulatory agencies with authority in the Delta. The State Water Contractors commented on drafts in December 2007 and in March and July 2008. Staff feels that the Workplan has appropriately focused and prioritized the State and Regional Boards' activities. Among the priority issues the SWC supported in their comments are:

- Action on water quality contamination including effects of ammonia on Delta smelt, and development of TMDLs

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- Development of a salinity management plan and drinking water quality plan for the Central Valley
- Review of unscreened diversions on, and discharge of pollutants from, Delta islands
- Review of illegal diversions in the Delta watershed, beginning in the Delta
- Review and potential modification of South Delta water quality standards and their implementation

The Workplan also proposes a comprehensive review of Bay-Delta water quality objectives and water rights implementation and review of the reasonableness of State Water Project and Central Valley Project diversions from the South Delta. The State Water Contractor comments reminded the State Board that any such review must include actions by all diverters from the watershed and should consider information, recommendations and actions resulting from the BDCP. In response, the Workplan pledged to participate in and coordinate with the BDCP process so as to complement and not interfere with its results. These proposed actions would not occur until the BDCP process is concluded; would use, where appropriate, information and environmental documentation developed in the process; and recognized that actions taken by the State Board may be based on changes in Delta conveyance.

On the day State Board adopted the Workplan, it also announced a “fact finding” process scheduled to begin in November 2008 to establish a factual record for its actions in the Delta. This will require a substantial commitment of resources, but will be an opportunity for Metropolitan and its fellow contractors to put information we have been developing in the BDCP, OCAP, Vision and other processes into the State Board’s record, and to cross examine witnesses and evidence to determine the adequacy of the science underlying existing and proposed restraints on project operations.