



- 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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#### Bay Delta Conservation Plan

The administrative draft of Chapter 3—Conservation Strategy for the Bay-Delta Conservation Plan (BDCP) was released at the end of July. This section of the BDCP outlines the major conservation elements proposed to be carried into the environmental analysis phase of program development. One key element identified in Chapter 3 is the proposed operations of the SWP/CPV Projects under the dual conveyance scenario assuming new intake and conveyance facilities. The proposed near-term operations which would occur at existing facilities until the dual system is constructed are still under development and were not included in the July version of the Conservation Strategy. Work continues on defining a governance and implementation structure and adaptive management for BDCP. Metropolitan is continuing to participate in all BDCP-related workgroup efforts.

#### Delta Operations

##### Endangered Species Act Consultations Regarding State Water Project (SWP) and Central Valley Project (CVP) Operations

On July 16, 2009, the California Department of Fish & Game issued a consistency determination under the California Endangered Species Act which authorizes the incidental take of Delta smelt from the operation of the SWP. The consistency determination relies upon compliance by the Department of Water Resources with the criteria in the federal Delta smelt Biological Opinion.

#### Near-Term Delta Actions

##### Two-Gates Project

The CALFED Science Program will hold an independent scientific peer review workshop for the Two-Gates Fish Protection Demonstration Project on August 6 in Sacramento. Metropolitan worked with the other project proponents to assemble a Summary Document that describes the project goals and objectives, hypotheses, conceptual model and adaptive management framework. The CALFED Science Program Independent Review Panel consists of national experts who will review the Two-Gates Project Summary Document prior to the meeting, participate in discussion with the project proponents, and produce a Review Panel report within a month of the meeting. The review will focus on the adequacy of the assembled information as justification for the project; an assessment of the proposed data collection and synthesis protocols for determining the success of such a project; and the likelihood for achieving the stated objectives of the adaptive management experiment. Metropolitan staff will participate in the workshop.

Metropolitan and the other contractors have identified project funds through Category III of the 1995 Bay-Delta Accord for environmental documentation and design, and are pursuing funds for construction through Proposition 13 and Proposition 84 funding through the Governor's September 2008 enactment of SB 1 (Perata). The availability of Proposition 13 and Proposition 84 funding is contingent on the State's budget and subsequent appropriations. The potential for Federal Stimulus funding is also being explored. The total estimated capital cost of the Two-Gates Project is approximately \$29 million.

## Board Report (Bay-Delta Management Report)

### **State Water Resources Control Board (SWRCB) Issues**

#### SWRCB Periodic Review of Bay-Delta Water Quality Objectives

The SWRCB's process for the review and update of the Water Quality Control Plan for the Bay-Delta continues. On July 7, 2009, the State Water Contractors (SWC) joined several other parties commenting on the SWRCB staff's draft "Staff Report" regarding the periodic review of the 2006 Water Quality Control Plan (WQCP) for the Bay-Delta Estuary, proposing how the SWRCB should approach the review process. The SWC written and oral comments agreed with the elements recommended for review, but disagreed with critical issues the Staff Report proposed to ignore. In particular, the SWC disagreed with the SWRCB staff proposal to not take up the issue of the impacts of ammonia and toxicity in Delta waters on fish and wildlife at this time. The SWC comments also pointed out that the Staff Report did not acknowledge the SWRCB's duty to balance competing uses of water to reach "reasonable" objectives, and it presented a selective summary of the current state of science to support its recommendations, which is not appropriate in this document setting stage for hearings with the express purpose of establishing a full record of current knowledge. The SWRCB has made some revisions in the draft Staff Report and will consider adopting the Staff Report at its August 4, 2009 meeting.

#### South Delta Crop Salt Tolerance Studies

The SWRCB's Strategic Workplan for Activities in the Bay-Delta Estuary, adopted in July 2008, calls for the review and potential amendment of the southern Delta salinity objectives included in the 2006 WQCP. The south Delta salinity objectives are for the purpose of protecting the agricultural beneficial use. SWRCB has released an analysis of the salt tolerance of crops in the south Delta and the salinity objectives needed to protect the yields from those crops. The report was prepared by Dr. Glenn J. Hoffman, an independent expert in the field hired by SWRCB. SWRCB's WQCP contains salinity objectives in the south and central Delta to protect the quality of water available to the farmers in that area. Many, including DWR, USBR and state and federal water contractors, have long contended that certain of the objectives are more protective than are necessary to protect the yields of the crops grown in the Delta. Attempting to meet the objectives causes significant reductions in SWP and CVP water supply otherwise available for the projects' customers. Dr. Hoffman's report indicates that the salinity objectives could be relaxed while still protecting all of the crops normally grown in the south Delta. SWRCB has scheduled workshops on August 13 and November 4, 2009, where Dr. Hoffman and SWRCB staff will orally present this report. Written comments on the report are due September 14. Metropolitan staff, along with other SWC staff, are reviewing the report and preparing comments for submittal at, and preparing to participate in, the workshops.

#### Water Right and Public Trust Complaints Against Certain Diverters in the Delta

Metropolitan and the state and federal water contractors are concerned about the potential impacts of other stressors in the Bay-Delta that may impact Delta fisheries, such as toxic contaminants, invasive species and in-Delta diversions. In-Delta diversions can impact Delta fish by contributing to unnatural flow patterns and a lack of food availability. In July, the SWC, San Luis & Delta-Mendota Water Authority, and the Modesto Irrigation (Complainants) filed complaints with the SWRCB against three Delta water diverters. The complaints allege that the named diverters are diverting water from the Delta without authorization and in violation of any recognizable or enforceable legal right. Complainants have been investigating the water rights of diverters in the south Delta for several months and have discovered evidence indicating that many diverters are diverting water without any identifiable water right, or in excess of their claimed water right. It is likely that Complainants will file subsequent complaints against other diverters as a result of their investigations. The complaints request the SWRCB to review the rights of the named diverters, order them to cease diverting in excess of their rights, and require them to monitor and report the timing and quantity of their diversions.