

Subcommittee on Water and Power
Committee on Natural Resources
U.S. House of Representatives

Testimony on the
California Bay Delta Conservation Plan

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Good morning, Madame Chairwoman and members of the Subcommittee. I want to thank you for being afforded an opportunity to appear before you today on behalf of the California Resources Agency on this important topic.

Before I begin my testimony, I would like to also express the appreciation of California Secretary for Resources Mike Chrisman for the time you have afforded us. Both he and the Resources Undersecretary Karen Scarborough regret that scheduling conflicts prohibited their ability to appear here today.

My comments will summarize the current Resources Agency efforts and those of other participants to develop a long-term, sustainable conservation plan for California's Bay Delta. We believe that this kind of effort, if successful, will hold substantial long term benefits from both an ecological and water supply perspective. I hope today to not only explain the basis for this fundamental conclusion, but to encourage the support of this Subcommittee in helping us succeed.

A good and instructive starting point is today. You have heard this morning of the deepening problems associated with current approaches to Delta conservation and restoration and of the fisheries and other species which are Delta dependent. These problems are by no means new, and the many participants in the Delta have been wrestling with them for decades in many different forms and phases, spanning a full spectrum from consensus-based approaches to hard-ball litigation. Despite these good efforts and well-meaning intentions, we are not succeeding, and the risks of catastrophic failure from a biological, water supply and economic perspective are increasing. Put simply, the Delta is in crisis.

This view is shared by a wide variety of interests, and it is precisely that confluence, of a Delta in crisis, which has led the parties to take a fresh start, searching for a new way, even amid the tumult of the day-to-day activities.

Perhaps a thorough and authoritative way to understand the context is to refer you and the Subcommittee members to the report of the California Public Policy Institute entitled “Envisioning Futures for the Sacramento San Joaquin Delta”, which was released in February of this year. It may be found at www.pplic.org. It is an elegant analysis of how the current model of how the Delta operates is not working, and how we all might envision a new future that embraces an altogether different approach. Its message is quite straightforward: we can capture success only if we are bold enough to think big and think differently: the ingredients for success do not lie in merely incremental turns in the knobs of the current system.

On October 6, 2006, after several months of deliberation, a broad Delta constituency came together and entered into a planning agreement to develop a roadmap to that new future. Entitled “Planning Agreement regarding the Bay Delta Conservation Plan”, it is signed by state and federal water and fishery agencies; the major water suppliers for agricultural and municipal interests, and a wide array of conservation organizations – in short, all the interests that have been dueling about the Delta for decades.

I will submit to the Subcommittee this Planning Agreement since it is the best and most concise statement of what the Bay Delta Conservation Plan is all about. The Agreement describes the intentions of the parties to develop a conservation plan over the next three years. It is intended to serve as a scientifically sound and legally defensible strategy for the ecological restoration of the Bay Delta and it will provide for the long-term conservation of at risk species and their habitats. It is also intended, from a legal perspective, to lead to the issuance of incidental take authorizations for listed species associated with the water supply, habitat restoration and other activities covered by the plan under the Federal and state engendered species statutes. Thus, it is intended to answer the question of what we need to do to address the challenge of the Delta’s biological needs. More broadly framed, it is intended by the parties to serve as a reliable strategy to get us from the turmoil of the present to a more scientifically robust future that will provide a far higher degree of reliability and stability for both biological and water supply objectives.

There are several attributes of the Bay Delta Conservation Plan that deserve mention. First, it is a voluntary, collaborative effort among an impressive breadth of Delta players, reflecting a common vision noted above. Second, it is extremely open and transparent, with all of the materials and meetings open and available for all to review, apprise, and critique. Third, it will be informed by an independent scientific panel that is, as we speak, being convened to provide independent scientific advice to the parties on the plan and its components.

Organizationally, it is led by a Steering Committee in which all of the plan participants are represented. The Steering Committee is chaired by California Resources Undersecretary Karen Scarborough. The group meets regularly and works by consensus. The Steering Committee, in turn, has commissioned several workgroups that carry out the day to day tasks for the planning effort and forward their work products to the Steering Committee for approval.

The planning process envisioned by the Steering Committee entailed a phased, tiered approach. Through the course of 2007 will be examining a wide range of conservation strategy options focused around alternative water conveyance designs since the choice of which conveyance option to pursue is so central to the overall conservation strategy. The Steering Committee is currently winnowing down those options from an initial ten to four, and through the summer and fall it will further narrow the field. In the late fall of this year, the Committee intends to select one or two conveyance options to pursue in far greater detail in the planning process itself. The idea will be to use these options as a centerpiece around which a broader, more comprehensive conservation strategy for the Delta will be constructed. It will be a strategy that will embrace all of the main limiting factors for restoring the ecological productivity of the Delta.

The Steering Committee anticipates that this broader conservation strategy will and must address a number of fundamentals to be successful: water conveyance strategies; habitat protection and restoration strategies; water management and water quality strategies; invasive species strategies; strategies to address toxic stressors in the system, and very importantly, disciplined science and adaptive management strategies to enable us to stay smart and nimble as we learn.

The schedule is both ambitious and essential because we have an unacceptable status quo. By year end the Steering Committee will have winnowed down the initial choices of conveyance options to at most two. It will then devote 2008 to the construction of the components of a broader conservation strategy around these one or two options that will then constitute its proposed plan. That plan, in turn, will be submitted to state and federal fishery agencies and other relevant authorities for their approval. As part of that approval process, it will be analyzed under both state and federal environmental statutes over the course of 2008 and 2009 to evaluate its effect and to provide open and continual opportunities for broad public review and participation. It will also undergo a focused evaluation of its ability to contribute to the conservation of listed species under federal and state endangered species acts. The Steering Committee intends that this entire planning process will result in a scientifically sound and legally defensible plan for the Delta by the end of 2009, leading immediately to aggressive implementation.

The Steering Committee is comprised of people who are experienced and sophisticated. They undertake this effort well informed about its challenges and risks, but also disciplined by the turmoil which abounds. Yes, this is a tall order, but this path may well be the best of several roads the Delta could travel. Fundamentally, the Bay Delta Conservation Plan represents a collective judgment of the parties to seek a new way out of our current crisis, and to fashion that new way to resolve Delta issues in an affirmative manner.

Do the parties have the enormous discipline to stay focused and on track? Time will tell. The State of California is itself deeply committed to the success of this effort, believing a Delta in crisis is simply not acceptable from an ecological, water supply, and economic perspective.

In closing, I would like to offer several observations to the Subcommittee.

The parties recognize that we have a collective problem and avoidance is not a winning strategy. But this is also very hard.

We need the federal government to help. We need the Bureau of Reclamation and the Fish and Wildlife Service in particular, to dedicate their best and brightest people to this effort. If it is business as usual at the usual pace, we will not succeed. We must be comprehensive to be successful, and to be comprehensive we must have firm, active and reliable federal participation.

We need experienced agency people who recognize and understand the problems and figure out how to solve them. We need people to have a sober assessment of what the real issues are and how to deal with them. We need solution people.

We need a focus on the Delta and solutions, and not avoid hard choices. We need each other; we need to work together for the Bay Delta Conservation Plan to work.

Fundamentally, we need trust. This is the most important criterion for success. Anything that this Subcommittee can do to improve the prospects that we have with these essential ingredients would be most welcome and encouraged. These difficult decisions are not made in a random way, but rather with an iron will to succeed.

That concludes my testimony. I again appreciate the privilege of appearing here this morning, and I welcome your questions.

Attachment: BDCP Planning Agreement