

**Draft Meeting Minutes
Delta Protection Commission
July 25, 2002**

1. Call to Order/Roll Call

The meeting was called to order at 6:35 p.m. by Chairman Patrick McCarty. Commissioners present were: Beltran, Brean, Cabaldon, Calone, Coglianesse, Curry, Curtis, Ferguson, Macaulay, McGowan, Sanders, van Loben Sels, and Wilson. Commissioners absent were: Bedford, Glover, Nottoli, Shaffer, and Thomson.

2. Public Comment

There were no public comments.

3. Minutes of the Last Meeting

On a motion by Commissioner Beltran and a second by Commissioner Coglianesse, the draft minutes were approved by voice vote. Commissioners absent from the last meeting abstained.

4. Chairman's Report

Chairman McCarty noted that the next meeting of the Commission would be held Thursday, September 26, 2002.

5. Commissioner Comments/Announcements

Commissioner Coglianesse reported that CALFED's Bay-Delta Public Advisory Committee (BDPAC) toured the Delta area and met in Rio Vista on June 26 and 27; there was a very good turnout of BDPAC members and the public at the meeting. She said that she, Commissioner Cabaldon, and Ms Aramburu gave a very good overview of Delta issues as part of the tour, and she wanted to publicly thank Ms Aramburu for arranging the tour. The chairman of the BDPAC said he believes that all BDPAC members should be required to take the Delta tour to understand the importance of the Delta to the entire State and its water system.

Commissioner Sanders mentioned a publication from the California Wilderness Coalition that might be of interest to other Commissioners: "Wild Harvest: Farming for Wildlife and Profitability: A Report on Private Land Stewardship." He circulated a copy of the cover page, foreword, and table of contents. The report can be accessed from www.calwild.org/resources/pubs/harvest.php.

6. Attorney General's Report

There was no report from Mr. Siegel.

7. Executive Director's Report

Ms Aramburu said that there were a couple of handouts circulated at the meeting: recommendations of DPC's Legislative Committee; a new letter from the San Joaquin Resource Conservation District in support of the RC&D program; and a comment letter

from George Bayse, North Delta Water Agency, to Commissioner Macaulay and Senator Machado regarding SB 1854, Delta Conservancy legislation.

She noted that the Commission's Land Use and Resource Management Plan has been reprinted. The new version incorporates the revisions that came about when the Commission adopted the policies within its Plan as regulations in 2001. Extra copies were brought to the meeting for distribution to interested parties, and the revised Plan will be posted on the Commission's website.

She said some Commissioners (former Vice Chair Steve Mello and Commissioners Wilson and Calone) served as members and alternates on the Delta Dredge Reuse Strategy Technical Advisory Panel (TAP), a CALFED-funded Directed Action to come up with ideas of how to facilitate dredging in the Delta. The report has been completed, and all Commissioners were notified that copies are available in hard copy and/or on disk. Some extra hard copies were brought to the meeting for interested parties. DPC will also be posting the report on its website. The report includes a message from the TAP, in which ideas that have been talked about for a long time are reiterated – i.e., having a coordinated permit process among agencies that regulate dredging in the Delta.

She noted that the National Academy of Sciences has released a report urging the Environmental Protection Agency to revisit its rules on using treated sludge on agricultural fields. This is an issue the Commission was very interested in several years ago when it was working on its regional plan (the Commission does not allow the placement of sludge on Delta Primary Zone lands).

She reported that American Farmland Trust (AFT) has determined that it has its own unrestricted non-profit source funds to start its proposed study on Delta agriculture. The first meeting was held the day before, and they will be working closely with Dept. of Fish and Game staff working on the Delta Ecosystem Restoration Plan, as well as DPC's Agriculture Committee. She will offer regular updates on this project.

8. Briefing on CALFED Activities and Projects

Cindy Darling, CALFED, said that she and Ron Ott are the new Delta coordination team for the CALFED program; Mr. Ott will be dealing with implementation issues and she will be dealing with outreach issues, including regular presentations to DPC. She thanked Commissioners Cabaldon and Coglianese, and Tom Zuckerman, who helped with the successful BDPAC Delta tour. She looks forward to coordinating the various CALFED activities and projects, including the agricultural component of the Delta Ecosystem Restoration Plan. If Commissioners have suggestions for issues they'd like CALFED to address, she'll work with Ms Aramburu to make sure they're agendaized.

• South Delta Improvements Project Update

Kathy Kelly, chief of the DWR's Bay-Delta office, said her office contains DWR's effort for CALFED's Conveyance and Levees programs. She presented some information on the South Delta Improvements project, one of the key components of CALFED's Conveyance Program, and circulated a handout of her PowerPoint presentation.

The South Delta Improvements program consists of actions that will improve water quality and water levels in the South Delta and increase the State Water Project (SWP) export limit. The project area encompasses the South Delta Water Agency, the SWP export facility, and the Central Valley Project (CVP) export facility.

According to CALFED's Record of Decision, the actions within the South Delta Improvements project include increasing SWP diversion capability to 8,500 cfs by mid-2003, increasing it again to 10,300 cfs by 2007 through dredging and installation of the four barriers or their functional equivalent by mid-2006, and fish screening of Clifton Court Forebay. However, there are technical concerns over the best fish screen design and associated costs; consequently, DWR and USBR will defer the decision to increase pumping to 10,300 cfs until a later date. Instead, export capacity would be increased to 8,500 cfs using the existing intake (this does not require the screening of Clifton Court Forebay) and the installation of permanent operable barriers to improve water levels and quality in the South Delta and to protect migrating salmon in the San Joaquin River.

Key issues proponents are addressing relate to the operation of the SWP at 8,500 cfs capacity. CALFED is looking at potential impacts to its Environmental Water Account in light of the increased export capacity, defining operational rules for the permanent barriers, and addressing the rule that the increased capacity help the CVP recover some of the yield that it has had to dedicate to fish and wildlife uses.

DWR and USBR will publish the Notice of Preparation/Notice of Intent and begin public scoping in October 2002, with a draft EIR/EIS circulated in May 2003, a final EIR/EIS circulated in October 2003, and hope to have a permit for 8,500 cfs in hand by the end of 2003. DWR will also be seeking approval to install permanent operable barriers; construction would start in July 2005. The fish barrier (head of Old River) would be completed at the end of 2007 and the three agricultural barriers would be completed by the end of 2008.

Once this has been completed, they would then undertake planning efforts associated with increasing SWP exports to 10,300 cfs. This work has been linked with the Tracy Fish Test Facility (which has been delayed), and there's concern about the timing of the information that will come from that facility and about the federal funding to get it up and running. DWR expects to complete the environmental documentation process for the increase to 10,300 cfs in the middle of 2005.

Commissioner Curry asked Ms Kelly what recreational improvements may be made at the barrier sites. She said DWR is designing the barriers to mitigate for impacts to boat passage and waterskiing (popular along Grant Line Canal). He asked about day use areas, launch ramps, or other potential improvements; Ms Kelly said DPC's Recreation Citizens Advisory Committee would probably recommend items for them to incorporate. DWR would consider joint efforts to provide such improvements.

Commissioner Curtis said DWR hopes to have the permits for 8,500 cfs by December of 2003, and asked if DWR has to wait until the agricultural and fish barriers are constructed before diverting at that level. Ms Kelly said DWR would start diverting at that amount when it receives the permit. DWR currently installs temporary barriers during the agricultural season to increase water levels and improve circulation in the South Delta, and would continue to do so until permanent barriers are constructed.

Commissioner Wilson asked what the top capacity of the current facility is. Ms Kelly said the current capacity is 6,680 cfs. During the rainy season, DWR may pump an additional 1/3 of the San Joaquin River's flow if it's over 1,000 cfs, between mid-December and mid-March. 8,500 cfs is what DWR could reasonably expect to get through the existing gate, given the restrictions on the facility.

- **North Delta Improvements Project Update**

Gwen Knittweis, DWR Bay-Delta office, introduced Aimee Dour-Smith from Jones and Stokes, the consultant that's aiding DWR in North Delta flood control and ecosystem restoration improvements. The North Delta Improvements Program consists of three distinct actions: evaluate and implement improvements at the Delta Cross Channel; evaluate a screened through-Delta facility on the Sacramento River (up to 4,000 cfs); and design and construct floodway improvements to provide conveyance, flood control, and ecosystem benefits. Her presentation focused on the potential floodway improvements.

In the North Delta project, DWR proposes to provide increased capacity within the Mokelumne River system to convey floodflows without catastrophic breaching of Delta levees. It is currently refining alternatives for public scoping in fall 2002, but some components being considered include dredging, bridge replacement, setback levees, and a whole or partial island bypass. One sample flood control scenario includes a partial island bypass on Staten Island with some setback levees on the South Fork Mokelumne, with bridge replacements at Miller Ferry and New Hope bridges. These preliminary alternatives will need to be modeled in a hydraulic model to be completed next month.

From a regional perspective, there are several other projects occurring in the watershed with which they are coordinating: North Delta Improvements, Sacramento County flood control improvements, South Sacramento County Streams Project, and the Corps' feasibility study on the Cosumnes and Mokelumne Rivers. A lot of the stakeholders and agency representatives from these projects also attend Mokelumne Cosumnes Watershed Alliance (MCWA) meetings. The North Delta Agency Team provides regulatory agency coordination. In addition, DWR has been meeting individually with local landowners and making presentations to Reclamation Districts as well as DPC and its Recreation Citizens Advisory Committee.

Progress to date and schedule: Jones & Stokes Associates has been brought on board to initiate the EIR/EIS process. They are constructing a regional hydraulic model, which is the focus of the effort at this point. They've coordinated with other projects in the watershed to cost-share in constructing a regional model that's UNET based (this is the model that the Corps' Comprehensive Study is using). The model is nearly complete,

and is being peer reviewed. Once this is completed in September 2002, they will proceed to public scoping in October and November. In early summer 2003, a draft EIR/EIS will be circulated, with a final EIR/EIS being circulated in early spring 2004. The design would be completed in March 2005, with construction completed by June 2008.

Commissioner van Loben Sels asked if a federal lead agency has been identified for this project. Ms Knittweis said she anticipates having the Corps of Engineers on board within the next few months.

Commissioner Sanders asked whether the South Delta project features are being considered with modeling studies comparable to those occurring for the North Delta project, and whether there is an effort to integrate those studies so that one can see what is happening in combination rather than in isolation. Ms Kelly said that the South Delta program is not using the same model as the North Delta program; the North Delta model is for analysis of flood flows, and the South Delta model is for analysis of the hydraulics in the South Delta area to quantify potential increased exports. Regarding cumulative impacts, CALFED has many potential projects that interrelate; people working on individual projects can't address impacts comprehensively. CALFED is developing common assumptions for current and future conditions, among all of its various projects.

- **Briefing on Acquisition of 149-acre Parcel on Bradford Island to Mitigate Levee Maintenance and Offset Loss of Dredge Disposal Site on Decker Island**

Bob Yeadon, DWR Delta Levees Program, Special Projects, talked about a proposal to fund Bradford Island Reclamation District's purchase of a 149-acre parcel for habitat mitigation associated with levee work on Bradford Island.

In 1988, the Delta Flood Protection Act (SB 34) was enacted; this legislation recognized the importance of the eight western Delta islands, and established the legislative intent to allocate \$12 million a year to the Delta Levees Program (in place since 1973). \$6 million went to Subventions, and the other \$6 million to Special Projects. Also with SB 34 came the requirement to mitigate for any habitat losses from levee rehabilitation, with the ultimate goal of no net long-term loss in habitat. With the passage of AB 360 in 1996, the program was extended to 2006, and net long-term habitat enhancement was required.

The recent levee work on Bradford Island has resulted in a mitigation debt of just under 33 acres. To provide for that mitigation, DWR and DFG, who are partners in the program, looked at three sites around the scour pond on Bradford; for various reasons, these could not be acquired. They then looked at a fourth alternative: establishing the mitigation site on Tract 19, a 149-acre parcel immediately to the north of the scour pond. He circulated an aerial photograph.

With Tract 19, DWR and DFG had both a willing seller and a Reclamation District that was willing to cooperate in purchasing the parcel. They plan to fence off a 32.73-acre site and establish habitat there through natural recruitment. The remainder of the parcel would remain in grazing, and they are considering allowing limited grazing within the mitigation area to control weeds, at least for the first couple of years. They will also set

up an endowment to keep the Reclamation District whole with respect to its taxes and assessments. Also, parcel 19 was ideal because DWR had a debt to the Reclamation Board for a spoil easement site of 32.5 acres from some land they put into habitat on Decker Island; that site will not be used in the foreseeable future. If DWR ever decides to use it, they would go through a permitting process with the Central Valley Regional Water Quality Control Board and comply with CEQA at that time.

One of the issues DPC has brought up several times is taking grazing or farmland out of production and creating habitat; DWR has been working with the Dept. of Conservation to identify mitigation measures. Through all phases of the project, DWR will comply with CEQA. Although the parcel is classified as prime agricultural land, it is currently in grazing, and since Bradford is accessible only by ferry, there are additional economic burdens for large-scale farming there.

Chairman McCarty asked what the cost of the acquisition would be; Mr. Yeadon said it was \$395,000, which will come from AB 360 Special Projects funds. Commissioner Wilson asked what fiscal year the \$395,000 would come from, and whether it would affect the 75% funding to his and other Reclamation Districts. Mr. Yeadon said this is Proposition 13 Special Projects money that was set aside last year, and would not affect this year's Subventions Program. Commissioner Wilson asked how other Reclamation Districts could qualify for some of this money for their own projects; Mr. Yeadon said if other districts have mitigation debts, Special Projects funds could be used.

Commissioner Sanders asked how long the evolution from grazing/grasslands to riparian forest is expected to take. Mr. Yeadon noted that there is excellent habitat at the scour pond just south of the proposed mitigation area, and recruitment at the mitigation site is expected to take ten to fifteen years. Commissioner Sanders asked if DWR had given any thought to accelerating that process. Mr. Yeadon admitted that this would require additional funds, which the Levees Program doesn't have this year.

Ms Aramburu said staff will summarize the comments made regarding the mitigation, and submit a letter to Mr. Yeadon.

Commissioner Brean asked, assuming DWR obtained fee title to the property, what the long-term use of the mitigation area might be, specific to the potential for recreation in the form of wildlife viewing. Mr. Yeadon said DWR would continue to graze the property, but the long-term use depends on the ultimate disposition of that property. DWR may turn the management of the property over to DFG, in which case wildlife viewing and/or hunting may be allowed. Alternatively, DWR may give the property to a third party such as Wildlands Inc. or The Nature Conservancy.

Ms Aramburu added that mitigation sites for work on Delta levees do not usually include a recreation component; they're usually on private property, and most sites would probably not be accessible to the public, and might conflict with the mitigation mandate of DFG. There are no public recreation facilities on Bradford Island at this time.

- **Consideration of Staten Island Management Agreement**

Ms Aramburu noted that the Commission looked at this CALFED-funded acquisition last summer; Staten is now part of the study area for the North Delta project. When Mike Eaton from The Nature Conservancy (TNC) addressed DPC on potential future management of the island, DPC noted that long-term management should conform to the intent of the bond acts that were used to acquire it (a wildlife-friendly agriculture easement and a flood easement). At that time, DPC directed staff to work with TNC, Resources Agency, and DWR to evaluate either adding DPC as a signatory to the two Staten Island easement agreements, or developing some agreement to ensure DPC maintains some long-term oversight responsibility for this property.

TNC's lawyers opted for the latter, so an agreement between DWR and DPC has been drafted by the Attorney General's office on DPC's behalf, to define a role for DPC in this long-term planning process. If the draft agreement is basically acceptable, a final agreement would be considered at the September meeting.

Chairman McCarty asked who holds title currently, and who would hold title in the future. Ms Aramburu said TNC currently owns the island, which is subject to a wildlife-friendly agriculture easement and a flood easement from the State. TNC had offered a couple of options for future management of the property – Mr. Eaton talked about a new independent nonprofit entity; there are no specific plans at this time.

9. Public Hearing #1 on Resource Conservation and Development Program in the Legal Delta

This was the first of three scheduled public hearings on the proposed Resource Conservation and Development (RC&D) program in the Legal Delta. DPC's Agriculture Committee and others have been serving as the Steering Committee, and have reviewed a draft application and interim plan. The application is due mid-October and needs community support to be a viable application.

Ms Aramburu said that in 2001, San Joaquin County Resource Conservation District came to DPC with the idea for a Delta RC&D Council and Program; DPC opted to have its Agriculture Committee serve as the primary body to review the proposed application and interim plan, as prepared by DPC staff. In addition to this community meeting, two additional meetings are scheduled: Thursday August 1 in Clarksburg, and Thursday August 8 at the Roberts Union Farm Center. After receiving public comment and input, a revised application and interim plan will be presented to the Agriculture Committee at its August 29 meeting, and then to DPC for final review and approval at its September 26 meeting. The application will be submitted to the local NRCS office, then forwarded to Washington D.C. for funding consideration.

She introduced Jeff Rodriguez, project coordinator for the Central Coast RC&D Council (Santa Clara to Santa Barbara on the coast), who has been assigned to provide assistance in the Delta application, and to answer questions from Commissioners and the public on the RC&D program.

Mr. Rodriguez said the RC&D program is a nationally sponsored, locally led program; it is not another layer of government. It would be a non-profit community development Council made up of representatives from Counties and communities located in the Delta. The only involvement from the government is that USDA, which will provide a staff person to assist the Council in carrying out its annual work plan and long-term plan, sponsors the program. The Council is usually made up of representatives from County Boards of Supervisors, Resource Conservation Districts, local chambers of commerce, farm bureaus, and other community groups; each group has one vote. The Council puts together a work plan of projects they want to implement in the community, and the employee finds the resources to carry out the program. There is no oversight from USDA or any other government agency. Councils usually incorporate as 501(c)(3) nonprofit corporations. Eleven councils exist in California, covering 2/3 of the State. There are other active applications being considered by USDA, including the Central Valley, the North Coast, and the Bay Area, along with the Delta application. The rest of the State is covered with successful Councils. His own Council has been in existence since the mid-1970s, and has a long track record of doing good community development and resource conservation projects. The primary focus is on small agricultural rural communities, and what's best for them in terms of sustainability of agriculture and other resources.

Commissioner van Loben Sels asked how each Commissioner as an individual community member can make sure this first application is successful. Mr. Rodriguez said that USDA is looking for community support for such a Council; if no support is demonstrated, the application would not be funded. DPC should seek support from counties, Resource Conservation Districts, and any other community organizations that might want to become part of the Council. Commissioner van Loben Sels asked if the Delta application would be competing with other applications in California or nationwide. Mr. Rodriguez said the applications are competitive on a national basis; there are 370 existing Councils in the United States, eleven in California, with three or four more California applications coming in this year. Commissioner van Loben Sels asked how we can separate our application from the competition. Mr. Rodriguez said we need to show outstanding community support, and identify potential projects. He has seen the draft application, and thinks the resources available here and the diversity of the ideas that have been offered for potential projects is tremendous. There seems to be a multitude of available sponsors, cooperating agencies, and community groups, but we need this support in writing as part of the application.

Commissioner van Loben Sels asked who would ultimately make the decision on whether the Delta application is funded. Mr. Rodriguez said it first goes to the State USDA office for review of technical content and to ensure there's enough local sponsorship to send it to Washington, D.C., where USDA reviews it. USDA in Washington D.C. makes a final decision based on appropriated funding for the program by Congress; if there is more money available than what is needed to fund existing Councils, new Councils can be considered. Last year, there was a significant increase in the budget and USDA approved 50 new councils throughout the United States; two or three in California. There are applications pending from the Bay Area, the North Coast, and the Central Valley.

Commissioner Ferguson said the Agriculture Committee first held a series of meetings (one in each Delta County) to explain the RC&D program to key groups and people, and found that there is interest in this program and its ability to bring new benefits and programs to the Delta. The Committee sees this community meeting as a necessary and important next step in moving toward submittal of an application for funding and approval of a new Delta RC&D program.

He emphasized that this is a community-based program to be managed by a non-profit entity; the initial response was that this program is just another layer of bureaucracy, which it is not. State and federal agency members may advise the Council, but they cannot be voting members. The new non-profit Council would determine what programs and projects to pursue, with the assistance of Council staff funded by USDA. He said the Agriculture Committee has already generated some ideas for potential projects: an ethanol plant using Delta corn and other crops; a marketing campaign for Delta crops; and mapping of agricultural lands to determine suitability for long-term farming. Grant money is available to pursue some of these ideas, and it would be the Council staff's job to write grant proposals, in cooperation with key people in Delta communities that can get involved with the Council and focus in on these issues.

Chairman McCarty asked if there were any Commissioner or public comments for the RC&D; there were none.

Commissioner Cabaldon asked what geographic area the Council would cover; Ms Aramburu said the Legal Delta is proposed, and added that staff brought printed maps that show existing Resource Conservation District (RCD) areas. She said the RC&D program is very flexible in membership and area; the area can change over time depending on the desires of those who want to participate (or not). Commissioner Cabaldon suggested including Rio Vista in the Council's proposed area.

Ms Aramburu noted Commissioner Shaffer was unable to attend the meeting, but he has expressed his support on behalf of CDFA. Staff sent letters to each of the Commission's five Supervisors, as well as local State and federal legislators, asking that they support the application. Staff assumes that Commissioners will take the lead in bringing this issue before their respective groups for support. Commissioner Wilson suggested sending letters to all of the Reclamation Districts, Commissioner Cabaldon said to contact the mayors of Delta communities, and Commissioner Wilson added that the sheriffs departments in each of the five counties should be notified because Sacramento County has local sheriff offices that are in danger of being closed due to lack of funding.

The next three agenda items were considered together, since they directly relate to each other.

**10. Consideration and Possible Adoption of Comments on SB 1854 (Machado)
Proposed Legislation to Create a Delta Conservancy Program**

11. Consideration of Comments on Pending Legislation

12. Consideration of Future Legislation to Create a Delta License Plate

Pat called on Commissioner Coglianesi, who chairs the Legislative Committee, to brief the Commission on the Committee's comments and recommendations on SB 1854.

Commissioner Coglianesi thanked Senator Machado for the many changes that have been made to the bill in light of previous discussions. The Committee suggested a couple of additional amendments: there is a reference to urban limit lines that may or may not have been intended, and they're asking some attention to that; and with respect to the role of the DPC in the proposed Delta Conservancy program, Commissioner Cabaldon found some language in the Public Resources Code relating to the Santa Monica Conservancy that is applicable. Ms Aramburu added that the Committee recommended including Rio Vista, most of which is outside of the Legal Delta.

Commissioner Cabaldon noted that this language is in the staff memo prepared for DPC; it would simply provide a formal mechanism for DPC to participate in the Delta Conservancy program. The challenge that the bill has encountered to date is that there's no money to support the operation of a new agency; the solution was to put the program into the Coastal Conservancy, which already has the full infrastructure to administer the program. The bill would require the Coastal Conservancy Board, when they're operating the Delta Conservancy Program, to work and consult with the Commission. The Committee discussed taking this one step further to say if DPC believes that a proposed Conservancy project isn't consistent with its Resource Management Plan (Plan), that the Commission itself could disapprove the project.

Commissioner Cabaldon added that the Committee has tried to address the kinds of issues that have been raised on the bill, but the challenge is that trying to find the perfect structure for this program may defeat the purpose of getting anything good out of it. There are many resources becoming available through the Conservancy mechanism that could be used for the full range of the three legs of the Delta stool; this is an approach that allows DPC to have credibility and also take advantage of the real resources that are showing up in every bond act.

Commissioner Coglianesi concluded that the Committee recommends support of SB 1854, with the suggested amendments.

Commissioner Coglianesi said that regarding the other pending legislation, staff has summarized the Committee's positions; this was included in the packet. She called attention to SB 1653 (Costa), relating to CALFED Governance – there have been no changes since the CALFED Committee made recommendations on local government and Delta representation on the entity. The Committee is recommending support if amended to reflect the comments they've already sent.

Commissioner Wilson clarified that the Coastal Conservancy would propose projects which DPC could veto; Senator Machado said this is meant to be a more collaborative process. For example, the Bay Conservancy looks at potential projects and then makes a recommendation to the Coastal Conservancy, who then implements it. Commissioner

Wilson said he understands that DPC would set policy, and asked where project ideas would originate. Senator Machado said project ideas could be initiated anywhere – a reclamation district, the new RC&D if approved, perhaps called out in a bond act. DPC would then look at that project, evaluate it against its Plan, and determine whether it's consistent. If it is, then DPC would turn it over to the Coastal Conservancy to implement. He said this legislation is needed because setting up a separate level of government would require separate funding, and the current fiscal situation won't allow it. This was a way of trying to achieve some efficiency and the benefits of a Conservancy, which really becomes a vehicle to be able to receive bond moneys to implement what's in DPC's Plan.

Chairman McCarty said that DPC's only tool to control anything in the Delta is its Resource Management Plan, and it's implementation through the County General Plans. If Senator Machado accepts the amendments proposed by the Legislative Committee, then DPC could determine whether it wants to participate in this. Senator Machado said he finds the amendments totally acceptable, and consistent with the intent of the legislation all along, which has been to empower DPC to have a more expansive role in the protection of the Delta and the furtherance of the Delta Protection Act.

Commissioner van Loben Sels noted that the California Central Valley Flood Control Association is currently opposed to the bill. Their attorney, George Bayse, submitted to Machado's office a letter outlining their concerns. To address his concerns, he suggests the following amendment: Activities of the Conservancy within the Delta which result in habitat improvement or in benefit to aquatic species, may be utilized by the DWR and DFG as meeting the requirements of "net habitat improvement", or net benefits, so long as they supplement, and do not compete with, funding already available for levees. Senator Machado said he received the letter, and he appreciates that Mr. Bayse is advocating more efficient use of dollars. The problem is that there is certain oversight by DFG on these funds, and they don't want to see an alteration of that process, as Mr. Bayse's suggested amendment proposes. Such a change would probably not be endorsed by the Resources Agency, and would likely result in a veto by the Governor.

Commissioner van Loben Sels added that many Delta residents are very concerned about lack of local representation on the seven members of the Coastal Conservancy board who will actually decide on projects; those items not covered by the Plan are of particular concern. He suggested an amendment: if the seven voting members vote to appropriate funds to a project, that project would come back before the DPC, who at that time gets to say yes or no. Senator Machado pointed out that at this time, DPC has no authority or oversight over any projects other than appeal authority over local government actions within the Primary Zone. The bill's language states that the Coastal Conservancy needs to work in conjunction with DPC, and that there are findings to be made by the DPC as to whether a project is consistent with its Plan. This legislation can be viewed as an incremental step toward DPC control or influence over the destiny of the Delta.

Chairman McCarty said that it is important to remember that the legislation talks about a Conservancy program, not creating a new entity. It's trying to create a program that will

give DPC more latitude, flexibility, and power over the Delta. Today, there are events taking place (such as the Staten and Yolo Bypass acquisitions), for which DPC didn't get the opportunity to evaluate consistency with its Plan. This new vehicle would give DPC that kind of oversight.

Commissioner Cabaldon said that there is a lot of taxpayer money in bond funds that is going to the various Conservancies around the State, everywhere but the Delta. It seems that people think of the Conservancy as simplifying habitat acquisitions, but that's not what the bill proposes; it proposes a program that's going to look at the full range of the issues that DPC is interested in. With the amended language, DPC would be able to leverage bond funds for the Delta area, and if the Coastal Conservancy proves to be an unsatisfactory administrator of these funds, at least the money would be in the Delta Conservancy account, and DPC could return to the Legislature to fix what's not working. Also, it sets a good precedent for influencing other agencies engaged in acquisitions in the Delta to bring their projects before DPC for a consistency determination.

Commissioner McGowan agreed that this legislation is a good step; this bill will allow DPC to develop and present its own agenda to the Coastal Conservancy, and in fact shape the direction that these projects are going to go. Through that process, DPC develops more credibility, and it would have a tool to start to implement some of the activities it's been talking about for the past several years.

Commissioner Macaulay said that he would have to abstain from a vote on this issue, particularly because DWR may be mentioned in one or more amendments on the bill. He has said at previous meetings that there certainly should be a more aggressive and permanent role for DPC in the activities occurring in the Delta, and when future bond measures are being considered, it would be great for a Delta Conservancy program to be named as the program to carry out \$50 to \$100 million in activities.

Commissioner Curry said that in the staff report, there's no funding attached to the legislation, and asked what the probability is of getting money into this program once it's been created. Senator Machado said there's a high probability that will happen as future water bonds are developed. Commissioner Curry asked if projects and programs funded by State agencies could be married together in joint ventures. Senator Machado said he thinks this will happen more frequently; it happened with CALFED on Proposition 13, where CALFED programs with applicability to local needs were funded. He thinks there's increasing need for cooperation and collaboration to meet mutual goals; if DPC is too protective of its turf, it may be left out of the process. With the diversity of the Delta's needs and the demands placed on it by other entities, DPC needs to look at collaboration in order to get public interest to support future funding for Delta projects.

Chairman McCarty opened the meeting up to public comment. There were none.

Commissioner Cabaldon moved approval of the Committee recommendation on SB 1854; Commissioner Coglianese seconded. Commissioner Wilson clarified that the motion was to support passage of the bill, contingent upon Commissioner Cabaldon's

amendment. Senator Machado said he has accepted those amendments, and will introduce them prior to the next hearing of the bill. Commissioner Wilson added that he'd like to see language allowing the Commission to veto projects that it deems inconsistent with its Plan.

Commissioner van Loben Sels said when the legislation creating the DPC was passed, Senator Johnston had many constituents that had the same uneasy feelings, so he added a sunset clause. As it turns out, DPC worked out to be beneficial and many Delta residents unanimously voted to continue it. He suggested that a sunset clause be considered here. If the program works out as well as hoped, and is generating lots of bond act and private dollars that are spent in accordance with the mission of DPC, then it can continue.

Commissioner Brean said that things have changed a great deal for State Parks as it relates to Conservancies. Funding from parks bonds used to come directly to State Parks; now, large portions of that money go to Conservancies, and usually these funds result in the purchase of lands that ultimately get turned over to State Parks to manage because the Conservancies for the most part don't manage lands. The areas and communities that already have Conservancies are competing for the same bond dollars, and if a sunset clause is added, all of those areas competing with a Delta Conservancy program will note that its sunset would reduce the competition.

Commissioner McGowan thinks that in having asked for the DPC to continue past its sunset, it's been recognized that DPC has a real and important role in the Delta; there is no other agency that has the sole concern about its protection. He sees this as a way to enhance the role, legitimacy, and effectiveness of DPC. He doesn't support a sunset clause.

Commissioner Curry asked the other State agency representatives why he should have to consider abstaining from the vote on this item. Chairman McCarty said unless there's been some specific direction from DBW, it's Commissioner Curry's decision. Commissioner Brean added that State agencies don't have a position until the Governor issues that position, and since the Governor hasn't done this, he can't take a position. Commissioner Curry said the way it's been characterized to him is, he represents DBW, but when he votes as a member of DPC, his vote's weight finds its context within the DPC and not DBW.

Commissioner van Loben Sels asked if the Legislative Committee's amendment could be taken back to his stakeholder groups, and what the Senator's time schedule is for a decision. Senator Machado said the session reconvenes on August 5 and he has approximately three weeks after that to get the bill through the Assembly and then back to the Senate on concurrence. If it's delayed, it's likely that he wouldn't get the concurrence of the DPC in time to include it on a list of support.

Commissioner Curry asked the Senator what the Governor's attitude is toward this bill. Senator Machado said he's been working with the Resources Agency, accepting a lot of suggestions, and has also discussed it with the Governor's office. He thinks an

affirmation by DPC in support will go a long way toward moving the bill forward in the process that has to take place for their endorsements.

The motion was approved by voice vote, with Commissioners Brean, Curtis, Macaulay, and Sanders abstaining.

Senator Machado thanked the Commissioners, and iterated that his concern for the Delta is the same as DPC's, and he looks forward to this bill providing DPC with some control over the Delta's destiny, and ensuring that projects that reflect local and stakeholder, as well as Statewide interests, are implemented.

Chairman McCarty said that with the Commission's concurrence, he'd like to move the consideration of legislation for a Delta special interest license plate to a future agenda, as it is a future prospect. Ms Aramburu said there has been general support for the idea, and she'd like to submit the concept to the Resources Agency for legislative matters for next year. She asked if she should use the general direction from the last meeting to proceed in submitting this preliminary concept. Chairman McCarty said he's prepared to accept the Legislative Committee's recommendation that it continue to be fleshed out. Ms Aramburu said they'd postpone any discussion or action on this item until the next meeting.

Commissioner Coglianese moved that DPC accept the recommendations of the Legislative Committee and authorize Ms Aramburu to forward their positions to the authors of the bills; Commissioner Beltran seconded the motion. The motion was approved by voice vote. Commissioners Curtis, Macaulay, and Sanders abstained; Commissioner Brean abstained from the vote only as it relates to AB 2301, State Parks acquisitions.

Commissioner Coglianese said that one of the Committee's recommendations with the proposed Delta license plate legislation was to contact the Delta Chambers of Commerce, as well as the Farm Bureau, to see if they are interested in partnering on this, and she asked if there would be an objection to initiating those contacts. Ms Aramburu said she would report back on those discussions; a full report will be brought back for DPC consideration in September.

13. Adjourn

On a motion by Commissioner McGowan seconded by Commissioner Sanders, the meeting was adjourned at 8:45 p.m. The next meeting of the Delta Protection Commission is September 26, 2002.