BDCP Delta Workshop Report

The following report provides a summary of comments received at public workshops held in September 2009. Meetings were held in: Brentwood (approximate attendance 53), Stockton (approximate attendance 133), Walnut Grove (approximate attendance 87), and West Sacramento (approximate attendance 39). The purpose of the workshops was to: 1) provide an update on the BDCP; 2) describe the conservation strategy, including specific conservation measures, currently under consideration by the BDCP Steering Committee and; 3) to solicit input from the public on the conservation measures, including feedback about their rationale and feasibility, as well as ideas about additional conservation measures that could help achieve BDCP objectives.

The purpose of this document is to summarize the comments received for the BDCP Steering Committee and technical consultants. These are not verbatim comments. The summary is organized by BDCP conservation topic – physical habitat restoration, water facilities and operation, and other stressors. Additional comments about the BDCP, but not about specific conservation topics or measures, are included in a separate section following the overview.

Overview

Major themes about the BDCP as a process and the substance thereof arose in all Delta public workshops and they are inter-related. They include:

Trust in BDCP Objectives and Planning Process

Many workshop participants disagreed with the validity of the BDCP's ecosystem and water supply objectives based on what they saw as the absence of Delta community needs in the planning process and the similarity of the BDCP's draft eastern conveyance alignment to earlier conveyance proposals. Workshop participants described dissatisfaction with the timing of Delta community participation and lack of representation on the BDCP steering committee. Participants also expressed concern about the level of detailed information available about proposed water operations and total restoration acreages in light of scheduled milestones in the BDCP planning and environmental review processes. Workshop participants voiced a lack of clarity about the role that impacts on the human environment would play in determining design and location of large facilities (conveyance and intakes) and restoration areas, and the opportunities for community input.

Impacts to Delta Communities

Workshop participants expressed dismay over what they saw as an imbalance of benefits to water exporters in other parts of the state with impacts borne solely by Delta communities. They had specific concerns about what they saw as lasting and irreversible impacts to the local economy, water quality, flood protection and overall multigenerational quality of life from the construction and operation of Two-Gates, new water intakes and conveyance facilities, and habitat restoration. This includes impacts to agricultural, local business, boating, and recreational fishing communities.

Community Assurances and Governance

Delta workshop participants identified as a key issue the need for assurances to keep Delta communities whole as unintended consequences of plan implementation become known, both now and over time. They cited past practices (such as past failures to meet water quality standards, lack of consistent funding, and lack of intergovernmental coordination) in combination with the adaptive management element of the BDCP as reasons to increase the transparency and enforceability of commitments made to Delta communities during the planning process, environmental review, and over the course of the plan's implementation. Many workshop participants expressed the desire for the state to commit to a willing-seller approach to habitat restoration.

Scientific Validity

Many workshop participants questioned the validity of seismic risk in the Delta and the effects of climate change on sea-level rise and hydrology, and therefore questioned underlying BDCP planning assumptions. Delta communities also generally questioned the appropriateness of conservation actions given the degree of scientific uncertainty around their effectiveness and the scale of disruption to Delta communities.

General comments on the BDCP

1. 2-pronged approach to plan doesn't take into account important issues of Delta residents, like agricultural land – need to consider the importance Delta and its residents are to CA economy. Question whether water conveyance and habitat have equal footing in the Plan.
2. Concern over change to or loss of water rights.
3. No successful precedent of similar magnitude on similar estuary.
4. Process
    a) Public Input – How will stakeholder opposition to portions of plan be dealt with? How much input does public really have?
    b) Not enough time to review document and frame questions.
    c) Modeling work should be transparent and should not have begun prior to public input – hold public meetings to take comment and get public input on modeling.
    d) Improve communication/outreach with EJ Communities.
5. Inter-relationship of plan elements
    a) Clarify the role of isolated canal in restoring tidal marsh and how conveyance type (above or below ground) would affect the rest of the plan.
    b) Restoration could be done without canal.
    c) Improvements to water quality should be decoupled from canal.
6. Alternatives - The BDCP should consider alternative approaches and/or elements of the plan to meet its objectives:
    a) Regional self-sufficiency including recycled water, water conservation, and desalination.
    b) Delta Corridors proposal.
    c) Turn off pumps.

7. Maps
   a) Identify on map "X2" line; Explain "X2" Rio Vista trigger.
   b) No western alignment or tunnel option shown on current BDCP maps.
   c) Map should show Antioch intake and Staten Island.
8. Address role of subsidies for Ag in water attainment.
9. Consider population growth and impact to the plan.
10. ESA take assurances need to be extended to neighboring landowners or agricultural diversions.
11. Explain in more detail how adaptive management works over a 50-year process, how monitoring and scientific review will be completed and how adaptive management will be funded.
12. Identify financing and who pays for mitigation.
13. Environmental baseline for EIR/EIS. It appears that fixing the declining fishery needs to be done because projects have been inappropriately operated.
14. The role of the legislature needs to be clarified. There should be a public vote on a canal.

Comments on Conservation Topics and Specific Measures

Physical Habitat Restoration

1. HRCM 16 – 65,000 acres tidal marsh restoration
   a) This measure needs to further explain the scientific basis for the 65,000-acre target.
   b) Gross acreage needs to be disclosed, including the relationship between intertidal and subtidal restoration as well as upland sea-level rise accommodation.
   c) "Restoration" is described for the very edges of the Delta bowl, which were not necessarily tidal marsh in the past. "Creation" would be a more accurate and appropriate title.
   d) The need for contiguous parcels for conservation plan restoration efforts makes this measure infeasible on a willing-seller basis. There is too much land needed and too many parcels needed. The state should commit to willing-seller arrangements for habitat restoration.
   e) Simplify and clarify acreage targets.
   f) The BDCP should work within the confines of current Suisun Marsh Plan.
   g) This measure should discuss the water supply requirements for tidal restoration and where it would originate. Comment that agricultural land use requires less water than tidal restoration.
   h) This measure should discuss whether tidal marsh is habitat for predators.
   i) Adaptive management of tidal marsh restoration needs to be clarified, including whether acreage targets are legally binding or can be changed with adaptive management, what happens to the land on which a restoration project is not effective.
   j) Implementation of this measure needs to be better explained/clarified, including whether uplands for sea level rise accommodation be acquired in near term and banked for later, whether land acquisition will be in fee title or easements and the implications thereof for landowners.
   k) BDCP should use existing data and experiences where possible to inform decision-making (e.g. Liberty Island –has it been productive, was it too expensive for too little return? Prospect Island – what will keep fishkills from happening again?)

2. HRCM ## -- Enhance channel margin habitats along non-Project levees in the Delta (includes HRCM 15 – Non-project levees, HRCM 12 – Channel margin restoration on Steamboat and Sutter Sloughs, HRCM 13 – Channel margin restoration along San Joaquin River)
   a) This measure should clarify what a "project levee" refers to, a Corps of Engineer levee or Department of Water Resources levee, and how restoration would be managed physically (ie between setback levees) and administratively (ie within levee programs).
   b) This measure should clarify which policy regarding vegetation on levees will be followed, given the conflicts between state and federal policies. The measure should also identify whether other locations will be considered if Corps policy will not be changed.
   c) Subsidence – Does HCP include measures to restore sloughs to original depths? Address algae?
   d) All of Grand Island is surrounded by Corps of Engineer levees – Will only channel margin be used there? Work within existing channel? Not build additional levees?
   e) BDCP needs to provide more specifics on proposed channel margin restoration in the Steamboat/Sutter Sloughs area (timing, ability to stay within existing channels using existing habitat, ability to avoid removing or converting levees).

3. General comments related to habitat restoration
   a) Terrestrial Species - Mitigating for loss of terrestrial species – Where (what location) will that be feasible?
   b) Managed seasonal and permanent wetlands – include/discuss.
   c) Concern about overall agricultural loss. SJHCP wants to preserve agricultural lands vs. BDCP that wants natural restoration – impact to agricultural will be dramatic – any changes to system will lead to farming impacts. Concerned that tidal restoration will wipe out existing use – 1st site selection (agricultural) criteria will not be met.
   d) Need clarification about – and more emphasis on – near-term actions. BDCP should more seriously consider elements of Delta Corridors.
   e) Adaptive management needs to be better described in terms of what it will mean for adjacent landowners; also in terms of what will happen to the land if a measure is later judged to be inadequate.
   f) Monitoring after the fact has been an issue for other HCPs. Provide assurances that monitoring will be fully funded and a commitment that it will be fully implemented. Bond funding of habitat restoration is not stable enough guarantee proper land maintenance in perpetuity. No funding will lead to absentee landowner neglect. Local landowners need assurances that the land will be properly maintained and need a better understanding of how they will be affected and protected.
   g) Concern over changes to flood control facilities and the impact to the effectiveness of local flood protection.
   h) Better describe the rationale for conservation measures, and include better descriptions of surveys conducted and modeling completed.
   i) Consider smaller scale restoration efforts first. They would be more feasible, easier to study and adaptively manage and would be less expensive. Provide a cost-benefit analysis to see if smaller scale efforts would make more sense.

j) Consider the hidden costs for environmental clean up needed prior to restoration.
k) BDCP will limit local control – this is a serious governance issue that needs to be discussed at the local level.
l) Concern about loss/change of H2O rights.
m) Clearly describe performance criteria to show exactly what is expected in terms of restoration benefits.
n) Describe how fish will get to or benefit from restoration areas that are blocked by a canal.
o) Describe the overlap with existing CVPIA mitigation requirements.
p) Better describe approach to and data used for analysis of existing conditions. There is a concern that existing conditions haven't been studied or that the values have been discounted.
q) Need to work with the Corps and the Reclamation Districts. Identify how flood water may impact restoration areas.
r) Sites seem to correspond to CALFED ecological sites. Will BDCP investigate land other than sites identified previously by CALFED?

Water Facilities & Conveyance

1. <u>WOCMN 8 – Operable Gates on Old River and Connection Slough – ("2-Gates")</u>
   a) Corps needs to use its involvement in BDCP to protect navigation.
   b) Impeding passage will create a safety hazard.
   c) Meet Delta residents' needs by installing gates that are operable 24/7. Closing the gates for large blocks of time as currently proposed is unacceptable.
   d) Investigate affect of 2-Gates on water temperatures.
   e) There is a lack of integration between 2-Gates and BDCP.
   f) Study effect of a seismic event if gates were in place.
   g) Will closing the gates direct fresh water to the pumps and block fresh water from other parts of the Delta?
   h) There will be increased salmon predation (e.g. by seals) with use of locks, gates and additional pumps.

2. <u>WOCMN 9 – Near-term Outflows</u>
   a) Salt water intrusion is already a problem and BDCP will make the problem worse; salt water species are already moving into areas where they have never been before (e.g. up to Martinez).

3. <u>WOCML 1 – Diversion Intakes, Conveyance Facilities, and Operations</u>
   a) Better describe the physical aspects of new conveyance facilities (including total acreage required) and the effects related to noise, power, air quality, etc. Describe in relation to existing Freeport facility as a reference.
   b) A canal will bisect communities and impose impacts on agricultural, recreation, business, historical views, infrastructure (flood protection system, drainage, and irrigation).
   c) BDCP should figure out what the Delta and fish needs are first and then determine an export capacity. Selecting 15,000 cfs first makes it look like the BDCP is analyzing the data to

reach a pre-determined conclusion. It seems that BDCP is intending to design the project for a maximum flow rather trying to reduce flow.

d) Canal being built in floodplain- natural floodwaters that benefit species will be diverted elsewhere – how do you route the flood flows and deal with impacts? What about localized flooding?
e) Be clear about assumptions re: S.J. River flows/salmon migration
    a. Look at creating new water sources (e.g. create 6.3m AF before exporting it)
f) How will juveniles move around diversions (existing and new)?
g) A higher threshold for certainty and better science should be required for measures that are irreversible and expensive (like a canal).
h) BDCP should respond to Delta Vision's recommendation for 1996 flow levels.
i) Tunnel idea will still destroy same areas as open canal.
j) In-water drilling can be a source of seismic events.

4. <u>WOCML 2 – Freemont Weir</u>
    a) Fremont Weir – Yolo Bypass inundation – what process are you using to balance biological benefits with economic benefits when considering flooding these areas? How do you reconcile with flood control benefits of bypass? Who protects public interest to get fair deal?
    b) Missing something with inundation plan – takes long time to dry out so that agricultural practices can commence. Need better consultation with agricultural community.
    c) Focus of BDCP needs to expand to eastern side of bypass.
    d) Show map with acreage of inundation (needed for meaningful discussion). We need this info.
    e) Show conceptual design of Freemont Weir gates – difficult to envision. Also discuss proposed maintenance (needed for meaningful discussion).
    f) Don't believe that salmon go up the Yolo bypass.
    g) Existing fish ladder at Fremont Weir – proposal to replace it to operate differently than current ladder operates? Would ladder operate independent of gates?

5. <u>General comments on water facilities and operations conservation measures</u>
    a) Alternatives to consider: regional self-sufficiency through water conservation and desalination, through-Delta conveyance, turning off pumps, placing/upgrading fish screens at existing pumps.
    b) Success of BDCP depends on water plan for entire state and its relationship to other programs such as South Delta Improvements (4 gates) and storage (including in-Delta storage).
    c) Concern about water quality and effects of increased salinity, including impacts on drinking water
    d) Better define boating and recreational impacts.
    e) Water supply reliability and conservation are mutually exclusive.
    f) Consider the long-term sustainability of Delta Islands – subsidence, seismic, and settling
    g) DWR needs to do better job meeting water quality standards, and the SWRCB needs to improve enforcement.
    h) Make all modeling processes and results open for review by the public.

i) The State promised in 1960 that SWP & CVP will not impact in-Delta water uses w/prior water rights. How will this be mitigated?
j) When can cities/counties have discussions w/DWR re: regional solutions to the BDCP impacts?
k) East alignment includes (Mildred island) Middle River) barricades, which would block the only other passage out of Discovery Bay.
l) Rio Vista dependent on ground water and river water for wells. Negative impacts due to flooding.
m) Will the water be moved under existing or new water rights conditions/requirements?
n) Groundwater is tied to surface flows – impacts to groundwater resources need to be addressed.
o) Be clearer about the sequencing of activities (e.g. will the new water operations and conveyance/intakes be allowed to start before habitat restoration is in place?).
p) Describe role DMC plays in creating reverse flows and if there will be new operational criteria for DMC?
q) Describe the effects of tunneling on water tables and private wells and well water quality.

Other Stressor Conservation Measures

1. <u>OSCM1-- Ammonia</u>
   a) Is it truly an issue/problem in the Delta?
   b) One-sided viewpoint on ammonia and aquatic toxicity.
   c) Express divergent viewpoints on this measure – fair and balanced measure.

2. <u>OSCM 3 – Methyl mercury</u>
   a) Feasibility.

3. <u>OSCM4 – Ag run-off</u>
   a) Poorly thought out – legacy pesticides not addressed. Mitigations do not reflect science, realistic conditions. County Ag Commission is adequately dealing with this issue – do not need DWR involvement.
   b) Expand study area – measure should reflect a larger study area not just in-Delta "offenders"
   c) Consider mitigating pesticide run-off in river.

4. Nitrates – Are they a problem? If so how big a problem are they?
   a) There is no (draft) conservation measure for nitrates.

5. <u>OSCM5 – Storm water Runoff</u>
   a) Consider investments local jurisdictions have made to maintain water quality, etc. – provide funding to existing programs (instead of "identifying funding").

6. <u>OSCM7 -- Dissolved Oxygen</u>
   a) Would operation of Friant help DWSC?
   b) Should expand beyond Stockton deep water ship channel and Include nitrates.

c) Difference between DO levels in Port of Stockton and Sacramento? *Compare and contrast the two – better understand and describe why there is not low DO in Sacramento.

7. OSCM10 – Reduce Risk of Future introductions of non-native aquatic organisms from recreational watercraft
   a) Establishing inspection stations for invasive species outside Delta? Should not be a BDCP issue. What else are you looking at that are outside the Delta?
   b) Vision for wash stations at launch ramps is not acceptable – needs to be at both private and public ramps. Strategy needs to be better thought out.
   c) Need rapid response to deal with invasive species – need funding source – expectation shouldn't just be to "control".
   d) Chapter needs to adequately identify and explain role of other agencies/issues (additional pests not called out in document). Look at level of coordination with other agencies and species considered as invasive.
   e) Challenge is whether funding is even available for current programs.
   f) How are you going to address the Asian clam?

8. OSCM13 – Remove non-native floating and submerged vegetation
   a) Aquatic vegetation that is desired to be removed through this process would have a negative effect on striped bass habitat.

9. OSCM 14 – Increase harvest of non-native predator fish species in hot spots
   a) Better explain what increasing harvest of non-native predatory fish means.
   b) Concern about effects on fish like striped bass.
   c) Seals are also predators for salmon.
   d) Fish were okay before the pumps were turned on. The biggest stressor is pumps, not predators.
   e) Better describe how BDCP will meet federal regulations related to some non-natives species.
   f) Increasing the harvest of non-natives will impact the fishing industry, and may not achieve objectives anyway. Too high a price to pay.
   g) If removing predator fish doesn't work, how will that be mitigated.

10. OSCM16
    a) Need more DFG wardens and they need equitable pay?

11. OSCM20 Harvest /Hatcheries
    a. Concern over hatchery for delta smelt. A hatchery is not necessary.

12. OSCM21 – Screen, move & consolidate non-project diversions
    a) Who pays for installation and ongoing maintenance of screens?
    b) Consider screening dead-end intakes such as cache slough complex.

c) Any data for amount of fish lost to agricultural diversions? Consolidation could lead to greater losses.

13. OSCM24 – Localized predator control
    a) Identify "hot spot fish kills" and inform public about these locations.
    b) Be cautious when considering channel modifications and silting effects.

14. OSCM25 – Non-physical Barriers
    a) Are physical changes in operations of Delta Cross Channel being considered? Concerned over changes in operations of gate – If changes are made, impacts to city of Stockton must be considered.
    b) Why are there no non-physical barriers to help direct Mokelumne juveniles?
    c) Identify the negative effects of bubble barriers and make public.

15. General comments on other stressor conservation measures
    a) Identify the measures that would have the most immediate effects.
    b) Managed seasonal wetlands are proven pest control practices.
    c) Identify what model can study other stressors effects.
    d) Will habitat areas be off-limits to fishing? This will displace fishermen.

Comment clarifications received as of 10/22/09:

1. Concerns about in-river drilling extend beyond seismic risk to public health risks to groundwater supplies.