

Phil Isenberg addressing Delta Vision Committee, Dec. 5, 2008, Workshop

I thought probably the best thing to do is simply talk about the staff draft memo given to you late in the day at your Long Beach meeting that I attended, and I have had a chance to review it since then. I've advised the other TF members what my comments would be and nobody cut my head off my head, but I'll just speak for the myself on that issue and then answer questions Mr. chairman if that is acceptable to you. First of all, I keep going back to the executive order as I did during the course of the development of the vision and Strategic Plan trying to figure out what the governor and you guys writing it actually wanted us to do. It is reasonably clear from the exec order that the TF in some sense had an easier and more focused direction than you did. Easier in the sense because the governor told us in executive order that we are to give our independent recommendations and we were an independent body. And I noticed that he didn't say that about you, but I'm sure you've had conversations with the corner office that detailed that. He told both of us to develop a durable vision for sustainable management of the Delta, that is kind of the operative language of the ex order that refers to the entire DV process of which the TF is only a part, the Committee is a part, other state agencies are a part, but specifically on your functions you were supposed to and did enter into agreements with private and other non-governmental organizations to receive funding for Delta Vision, you did that and accomplished that with supplemented public monies that went in.

You created the stakeholders coordination group and appointed the 43 members to that group and they worked with us for the entire 20 months of our effort. You appointed the science advisors who were primary scientific advisors to the Blue Ribbon Task Force on that issue, and last, you were to report to the governor and legislature by Dec. 31 with recommendations for implementing the delta vision and the strategic plan. I guess we are in the same boat together in a lot of ways.

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I want to talk about 5 things: 4 missing elements that I consider to be major, and a fifth is a format suggestion for the (staff draft) memo:

One thing might be useful to you is Roman numeral VII in the front of the Strategic Plan. It is captions of goals and strategies and 73 action items that fall under each.

1. We started off with what we thought was the only way to crack the multitude of problems: to try to cut through 158 years of state statutes on the water and the Delta, and to declare, as the governor asked us to do, the most important priorities for people of CA collectively. We said goal #1 is to legally acknowledge co-equal goals of restoring the ecosystem, creating more reliable water supply. Staff memo alludes to goal, but you don't say whether you support or oppose it. In our judgment it is not possible to have a coherent plan to present to the governor without a declaration of state policies in affirmative fashion. I recommend you say whether you like it or don't like it. There are three actions committee might to consider-- A yes, a no, or a punt and this would apply to any particular issue. Coequal goals are there; they are foundational to our work.
2. Implicit in the staff draft is the notion that there will be a Delta Plan of some kind, comparable to governor's request we develop and submit a strategic plan. Nowhere in the draft is there a clear declaration that a plan must be developed, implemented, and enforced. Should be a clear statement. Again, you may say yes or no or may want to punt. So many issues are dependent on fundamental conceptual approaches and implementation steps.
3. Governance is major part, but recommendations in memo are timid. 20 months of public meetings, state agencies asked us to give them suggestions on governance. Only gave minor suggestions. Their questions: Who should be in charge? Who makes the call? Who doesn't make the call? Unfair to ask agency operatives to make that decision; more fair to ask you. Fundamentally important that committee consider its recommendations for all understandable reasons. What does governor want? What does committee want? Subject area is historically so contentious that it calls for policy makers to exercise independent judgment. Suggest governor would appreciate your judgments on governance issues. Can't have coequal goals, and fail to clearly and specifically address governance issues. You can't read draft memo on governance and get much more than there is a delta policy group to be set up and chaired by Mr. Chrisman and it is basically State agency heads that will meet, and they are given no duties to perform. That leads to interagency squabbling when you ask the question "what is this body to do?" Whatever it is you are supposed to do, do you do it by a certain date? What date? Is this agency to develop a plan? You can't have a short term, at best, coordinating body with no power, no authority, no functions, and no reporting date. Staff draft doesn't do this. This is one of the big issues you have to wrestle with. It requires you to not just have a minor interim step on

governance. The Governor in EO asked for a long range plan for sustainable development of the Delta; this can't be done with a small interim advisory body that just tinkers around.

4. A lot of the staff draft in ecosystem punts to BDCP. BDCP started off to satisfy legal requirement to build facility in delta of some kind and viewed as legally-required mitigation plan to do this. There is no way to do what the governor's Executive Order wants. It calls for an ecosystem evaluation—not an EIR mitigation analysis. You can't do eco evaluation if just doing a project-specific plan. You said in the vision that the BDCP process has to be broadened so that important subject areas that lead to ecosystem discussion are met. In staff draft, you have to address the question of scope of information, and evaluation needed in BDCP so out of the process comes a definition of the ecosystem within the Delta that is broad enough to a) attract public support, and b) get us collectively through what could be decades of implementation.
5. I called your attention to goals, strategies and action items in VII. Compare staff draft and ultimately your policy with what was recommended. My suggestion is that it would be useful to take these captions, 7 goals, 22 strategies, and action items: that's where committee might say yes, no, or punt (include to whom and what they have to decide). Start with coequal goals as illustration: if you think that coequal goals is a useful starting point, and I hope you do, we said in the strategy, make them foundation of CA Delta and water policy making. Either write in constitution and/or statute and more importantly under action item 1.1.3, put coequal goals in the operational working documents that environmentalists and water world live on: Contracts, water right grants, operational agreements. This format suggestion is a way to address this—our format is probably the measure that will be used to figure out by media and interest groups what are they recommending that the task force didn't because water & environmental world is interested knowing what the administration actually thinks about these things. The water battle and deadlock has gone on for 30 years. We need to get out of this and clarity may be a way out of this. I think it would be useful to take that approach and ask staff to go back and say yes, no, or punt on a goal by goal, strategy, and actions basis; this is the only way possible to get to governor a coherent recommendation from our strategic plan.

Last couple of things:

If you do the coequal goals and think there ought to be a delta plan and that Delta plan ought to be legally binding on state of California and as Mr. Grindstaff's memo says, hope feds would give equivalent of coastal zone management act deference to state planning, you will need a structure. The Coastal Commission was deference point adopted by voters and put into statute. The Delta and water policy needs something comparable to expect any chance of federal recognition.

Lastly, on the near term actions I noticed that the actual hard ground work in delta on improving existing delta facilities was not much present. We're in favor of pilot projects in Middle River, Contra Costa water intake move, 3-Mile slough barrier. You can draw from language in staff report some implications that they would support that. My instinct is that the Delta takes a long time to do big things and we have to purchase an insurance policy on existing water conveyance system to get us through next 15 years. It's expensive and complicated. Suggest it would be a good way to start on near-term actions that you've included in fairly elaborate form-- it is possible that staff meant many of those things, but it is not as clear.