



November 14, 2008

Mike Chrisman
Resources Secretary
Chair, Delta Vision Committee
1416 9th Street, Suite 1311
Sacramento, CA 95814

Sent Via Email

**RE: Recommendations for the Delta Vision Committee's Report on
Implementation of the Delta Vision Blue Ribbon Task Force's Strategic Plan**

Dear Secretary Chrisman:

The Natural Resources Defense Council, representing more than 250,000 activists and members in California, is writing to provide initial recommendations to inform the Delta Vision Committee's ("Committee") draft "Report to the Governor and the Legislature by December 31, 2008 with recommendations for implementing the Delta Vision and Strategic Plan,"¹ which we understand will be released prior to the next Committee meeting. We offer the following four recommendations as high priorities for balanced, early implementation. We will provide more detail on these recommendations in the coming weeks.

(1) Implementation of the Flow Recommendations in Strategy 3.1 and 3.4 by the Department of Fish and Game and the State Water Resources Control Board

After nearly two years, Delta Vision has concluded that, "Freshwater flow conditions in the Delta must change in order to revitalize the ecosystem and the species that live in it."² We agree with the Task Force that there is a growing recognition that the existing water quality standards in the Bay Delta Water Quality Control Plan provide inadequate protection to endangered and threatened fish species and California's salmon fishery.

The Strategic Plan includes four important recommendations to increase instream flows and Delta outflows to benefit the Delta ecosystem and native species, including: (a) increased spring outflow (Strategy 3.4.3); (b) increased fall outflow variability, with higher outflow in normal, above normal, and wet years (Strategy 3.4.4); (c) increased San Joaquin River spring outflow

¹ See Executive Order S-17-06 (September 28, 2006).

² See Delta Vision Strategic Plan at 83.

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and fall pulse flows (Strategies 3.4.5 and 3.4.6); and (d) increased inundation of the Yolo Bypass (Strategy 3.1.1). *See* Delta Vision Strategic Plan at 71, 83-87.

The Strategic Plan directs the State Water Resources Control Board to further refine these strategies, in conjunction with the Department of Fish and Game, finalizing instream flow requirements in the Delta and upstream rivers, and to implement these strategies through changes to the Bay Delta Water Quality Control Plan and in water right decisions and orders. *Id.* at 83-87. Consistent with the Strategic Plan, the State Water Resources Control Board has begun a proceeding to review the 2006 Water Quality Control Plan for the San Francisco Bay / Sacramento – San Joaquin Delta Estuary.

Therefore, we recommend that the Committee direct the State Water Resources Control Board to incorporate Delta Vision’s recommendations in the review of the Bay Delta Water Quality Control Plan, and to require that this proceeding be completed prior to making anyfinal decisions on new conveyance facilities.

(2) Implementation of Delta Vision’s Analysis of Alternative Conveyance Facilities and Water Flow Recommendations by the Bay Delta Conservation Plan Process

The Delta Vision Strategic Plan properly has concluded that “much more analysis of sizing combinations, impacts, and costs of either an improved through-Delta channel or an isolated channel are needed to finalize any decision regarding conveyance that meets the co-equal goals.”³ In the Strategic Plan, and in the Task Force’s June 30, 2008 letter to the Governor (attached as Exhibit A), the Task Force identified a number of critical questions and analyses that must be performed before making a final decision on conveyance, recognizing that the analysis “must focus on more than the maximum amount of water that can be moved through the Delta.”

In addition, as discussed above, Strategies 3.1 and 3.4 recommend implementation of significant new water flows in the Delta and upstream. We expect that the forthcoming OCAP biological opinions will include provisions similar to those recommended in the Strategic Plan. These changed flow conditions will necessarily affect decisions on conveyance facilities.

In light of the many billions of dollars that would be required to construct a new conveyance facility, and considering the potentially significant impacts to the delta ecosystem and listed fish species, we strongly agree with the Task Force that it is critical that the State adequately address these unanswered questions before making a final decision on new conveyance facilities. NRDC has previously expressed significant concerns with the Bay Delta Conservation Plan (“BDCP”) process, and we do not formally participate in that process. Notwithstanding those concerns, we also recognize that the BDCP process is currently analyzing potential new facilities and their effects, and is engaging many of the critical state and federal agencies with expertise on these issues. Therefore, it is critical to the success of the BDCP and of the Delta Vision Strategic Plan that this process fully address these issues, recognizing that State and federal agencies ultimately must make the final decisions .

³ *See* Delta Vision Strategic Plan at 102.

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Finally, assumptions regarding delta flow standards have significant implications for the performance of potential new storage facilities both North and South of the Delta.

Therefore, we recommend that: (a) the Committee direct BDCP to address the questions identified in the Task Force’s June 30, 2008 letter to the Governor and in Strategy 5.1; and (b) the Committee direct BDCP to analyze the flow recommendations in Strategies 3.1 and 3.4, and incorporate them into the draft conservation plan. We also recommend that the Committee direct the Department of Water Resources to include and recommend that the U.S. Bureau of Reclamation include the Delta Vision flow recommendations in analyses of proposed new surface and groundwater storage facilities.

(3) Enactment of Governance Reform Legislation

Governance reform is one of the foundational principles of the Strategic Plan, which calls for enactment of legislation to codify these recommendations “as early as the summer of 2009”.⁴ The Strategic Plan includes a comprehensive package of reforms to address the regulatory failures in the delta. We strongly support the concepts endorsed in the Strategic Plan, including: a legally enforceable plan that state, federal, and private activities must be consistent with; a single state entity with oversight authority that will implement the plan; creating adequate funding mechanisms for implementation through fees and other revenue sources; ensuring improved regulation of water projects; strengthening the Delta Protection Commission; and developing a Delta Conservancy to coordinate habitat restoration. We agree with the Task Force that reforming governance in the Delta is a necessary early implementation action.

Therefore, we recommend that the Committee direct the Department of Water Resources, the Delta Protection Commission and other state agencies to work with the Legislature to develop legislation that implements the Strategic Plan’s governance recommendations in Strategies 7.1 to 7.4.

(4) Enactment of Water Conservation Legislation and other Strategy 4 Elements

NRDC strongly agrees with the Task Force that the State must reduce its reliance on water exports from the Delta, and increase regional self-sufficiency, through implementation of Strategies 4.1 and 4.2. As you know, NRDC sponsored legislation last year to enact the Governor’s 20% water conservation goal, and we expect to reintroduce similar legislation next year that builds on the Strategic Plan’s recommendation to establish agricultural and urban water conservation requirements. Furthermore, the Department of Water Resources, State Water Resources Control Board, the California Department of Public Health, U.S. Bureau of Reclamation, California Energy Commission, and California Public Utilities Commission are currently engaged in a process, “20 x 2020”, to develop a plan to achieve a 20 percent reduction in per capita urban water use by 2020. The combination of efficiency, water recycling, and other water management strategies, which NRDC describes collectively as the “Virtual River”, have the potential to create more new water each year than has ever been exported from the Delta.⁵ As the Strategic Plan recognizes, the alternative water supply sources that comprise the Virtual

⁴ See Delta Vision Strategic Plan at 123-124.

⁵ See Exhibit B attached hereto.

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River are far cheaper and quicker to implement than are surface storage projects, and because they also address other existing environmental problems, provide added benefits to society.⁶

Therefore, we recommend that the Committee support the work of the 20x2020 team, and direct that team to address agricultural water efficiency as well as urban. The Committee should further recommend that the Legislature develop and enact legislation that requires urban and agricultural water conservation and wastewater recycling programs, consistent with the Delta Vision Strategic Plan.

Conclusion

NRDC is encouraged by the outcome of the Delta Vision process, and we believe that the Delta Vision Strategic Plan presents a comprehensive approach for restoring the delta ecosystem and California's water supply reliability. All parties, including NRDC, certainly have concerns with at least some elements of the Strategic Plan. However, we strongly believe that the persuasive power of the Task Force's recommendations would be significantly weakened if the Committee were to substantially "refine" these strategies or delay implementation of certain critical elements, including those identified above. We urge the Committee to include these four elements as early implementation priorities in your report to the Governor and the legislature. We look forward to working with the Committee to develop an implementation report that advances the detailed recommendations in the Strategic Plan, consistent with Executive Order S-17-06.

Thank you for your consideration of our views. Please feel free to contact us at your convenience if you would like to discuss our recommendations prior to the Committee meeting on November 21.

Sincerely,

Doug Obegi
Staff Attorney

Enclosures:

- Attachment A: Letter from Delta Vision Blue Ribbon Task Force to Governor Schwarzenegger dated June 30, 2008
- Attachment B: "Tapping California's largest source of water," Opinion-Editorial by Barry Nelson, San Diego Union Tribune (May 30, 2008) and related information on the "Virtual River"

⁶ For instance, improved storm water capture through low impact design in Southern California can greatly reduce coastal water pollution. Similarly, cleaning up contaminated groundwater basins can not only yield additional water supply, but it also addresses a critical environmental justice need for communities that cannot drink local groundwater and have to rely on expensive, bottled water.



June 30, 2008

Honorable Arnold Schwarzenegger
Governor
State of California
State Capitol
Sacramento, CA 95814

Dear Governor Schwarzenegger:

The Delta Vision Blue Ribbon Task Force is providing this letter to fulfill its goal of commenting on a possible preferred water conveyance alternative by June 2008. We present these views against the backdrop of your February letter directing DWR to proceed with NEPA/CEQA analysis of at least four alternatives:

- ✓ The possibility of no new Delta conveyance facility;
- ✓ The possibility of a dual conveyance facility, as suggested by the Task Force;
- ✓ The possibility of an isolated facility;
- ✓ The possibility of substantial improvements and protections of the existing water export system, most often referred to as 'armoring the Delta' or a 'through-Delta' solution.

Background

Executive Order S-17-06 directs the Blue Ribbon Task Force to include consideration of reliable water supply, the environment, and infrastructure in developing a vision and strategic plan. Of the 12 linked recommendations in the Vision we adopted in November 2007, Recommendation 1 states that the Delta ecosystem and a reliable water supply for California are the primary, co-equal goals for sustainable management of the Delta. Recommendation 8 states that new facilities for conveyance and storage, and better linkage between the two, are needed to better manage California's water resources to meet the dual objectives of reliable water supply and ecosystem health.

To achieve both of these linked objectives, the adopted vision made these additional recommendations: (1) Immediate improvements to the existing through-Delta export system; (2) an assessment of a dual conveyance system as the preferred direction, focused on understanding the optimal combination of through-Delta and isolated facility improvements; (3) to urgently assemble available information on design features, cost, and performance of alternative conveyance options against specified criteria to allow selection of a preferred alternative by June 2008.

In recent months, we have received a number of reports and presentations by Task Force work groups, and by CALFED, DWR, and others, described in Attachment A.

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Honorable Arnold Schwarzenegger
June 30, 2008
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Conclusions and recommendations on a preferred water conveyance alternative.

Through review and discussion of the information presented to us, we have grown more confident that dual conveyance, including both an improved, resilient through-Delta conveyance component and an isolated component, is a strong choice, provided the chosen design fully embraces the co-equal goals of a resilient ecosystem and reliable water supply. This is not just a choice of conveyance, or even of conveyance and storage, but also a choice with large implications for the future Delta ecosystem.

Analysis of conveyance facilities and associated storage must focus on more than the maximum amount of water that can be moved through the Delta. Beyond maximum flows, the analysis should determine the combination of facilities that can best achieve the management flexibility required to meet ecosystem needs, to provide greater reliability in water supply, to maximize the taking of water in wet periods when it is most available, and to accommodate the kinds of transfers and regional self-sufficiency needed. Management flexibility will be increasingly critical to capture water during wet periods and to cope with predicted increased volatility of weather and extreme weather events.

Much more analysis of sizing combinations, impacts, and costs of *both* an improved through-Delta component and an isolated component are needed to confirm any decision regarding dual conveyance and to finalize a design that contributes to our vision of co-equal goals for sustainable Delta management. In Attachment B, we recommend several elements for any conveyance facility investigation.

As your Delta Vision Blue Ribbon Task Force moves toward our final goal of developing a Strategic Plan to implement our Vision for the Delta and the water future of California, we again reemphasize that improvements to the existing through-Delta conveyance system must begin immediately. It is equally critical that improvements to the ecosystem must begin now to ensure progress as rapidly as possible. The recommended approach requires both analysis and action; as dual-conveyance is studied in greater detail, interim steps must be taken to improve the through-Delta conveyance system today.

Consistent with our Vision's first recommendation, our Strategic Plan will provide a framework within which a more resilient ecosystem and reliable water conveyance system can be effectively implemented and operated and may make additional recommendations regarding conveyance facilities and associated storage.

Sincerely,

A handwritten signature in black ink that reads "Phillip L. Isenberg". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Phillip L. Isenberg, Chair
Delta Vision Blue Ribbon Task Force

cc: (See attached list.)

Honorable Arnold Schwarzenegger
June 30, 2008

List of Courtesy Copies

Honorable Mike Chrisman
Secretary for Resources
Resources Agency
1416 Ninth Street, Room 1311
Sacramento, CA 95814

Mr. Lester Snow, Director
Department of Water Resources
1416 Ninth Street, 11th Floor
Sacramento, CA 95814

Attachment A: Information provided since adoption of *Our Vision for the California Delta*

- The Task Force's Water Supply and Reliability and Healthy Ecosystem Work Groups have suggested that a wet-year diversion system (a shift of export diversion timing to wetter periods, when least harmful to the ecosystem) be considered as a strategy to achieve greater water supply reliability and ecosystem health. To do so would require increased storage and conveyance capacity statewide. A dual conveyance system would increase conveyance capacity and options, and could support a wet-year diversion system if properly managed.
- CALFED submitted a "Summary Review of Prior Delta Conveyance Reports", which reviewed the findings of over 100 reports that dealt with Delta water conveyance and potential effects on water quality and ecosystem health and resilience. The report identified data gaps, especially regarding ecosystem performance, in previous studies and conveyance designs that would be critical to address when assessing an improved conveyance system.
- DWR submitted "An Initial Assessment of Dual Delta Water Conveyance", which gave a preliminary assessment of a dual conveyance strategy as part of ongoing efforts related to the Bay-Delta Conservation Plan development process, including preliminary design features, cost, and preliminary performance results of alternative conveyance options. The Task Force found that the assessment explained the merits of an isolated component, but fell short of addressing the long-term resilience and recoverability of the through-Delta component of the dual conveyance strategy.

Attachment B: Recommended elements for assessing conveyance facilities and related storage

1. **Directly address alternative choices and design configurations by how well they serve the co-equal goals of protecting the Delta ecosystem and providing water for Californians.** Include a clear description of near-term actions to improve ecosystem function and water system reliability of the existing through-Delta conveyance system.
2. **Incorporate ecosystem health and resilience.** Analyze a full range of through-Delta flows *and* isolated facility flows on in-Delta ecological processes and functions, and analyze how reduced pumping operations may reduce entrainment of certain fish species. The analyses should ensure that restoring ecological functions is a central component of the plan, and not treated merely as mitigation to offset continued water export functions – an approach which has failed to break through the political deadlock on water and the ecosystem for the past 40 years.
3. **Incorporate anticipated levels of usage of available ground and surface storage.** Include not only existing ground and surface water storage but also possible increases in ground and surface water storage. Incorporate timelines by which additional surface and ground water storage may become available for use into analyses. In addition, assess possible gains from changed operations of storage capacity (e.g., more effective flood plain protection and management allows effective increases in reservoir capacity).
4. **Face up to the question of anticipated future water diversion and exports from the Delta.** In order to make an intelligent decision on alternative water export facilities it is essential to state the expectations on water diversions and describe the decision processes and rules that would be used to determine allowable diversions under a range of hydrologic and climatic conditions. A greater emphasis on wet period diversion will require a more comprehensive set of regulatory requirements for the Delta and upstream tributaries than exists today, in order to ensure the achievement of our co-equal goals. We understand the political difficulty of this discussion. However, failure to face up to the question will once again lead to a divisive and bitter statewide battle about water and the Delta. Analyze the performance of all conveyance systems considered in terms of wet period diversion; that is, the ability to *divert, move and store* more water during wetter periods and reduce water diversions in drier periods in part to provide for Delta environmental protection and as a strategy to cope with reduced snowpack as a result of climate change. Quantify thresholds for water required in the Delta (in volume, timing, and quality at various locations) for effective functioning of the estuarine ecosystem under different conditions.
5. **Analyze implications for migratory fish species and upstream rivers.** Analyze the implications of conveyance and operational options, including a full range of diversion levels, on representative migratory fish species and upstream riverine habitat.
6. **Incorporate realistic estimates of reliable water transfers as part of the evaluation.** Reliable water transfers are a valued public policy goal and specific estimates of such transfers should be included in designing and assessing alternative conveyance systems.

7. **Identify and evaluate improvements to through-Delta conveyance for resiliency and recoverability in the event of catastrophic loss and incorporate effective improvements in analyses.** Do not merely assume the status quo of existing through-Delta conveyance is acceptable; improvements to the existing through-Delta system must occur to protect California's water and the ecosystem regardless of dual conveyance design details chosen. Near-term improvements on through-Delta conveyance could contribute to the two important goals of (1) increased conveyance capacity and (2) reducing risk of catastrophic failure, including the value of repairable through-Delta conveyance capacity. This is consistent with our Vision recommendations 7, 8, and 9.
8. **Incorporate a sea level rise projection of at least 55 inches (by 2100) in facility designs.** Additionally, clearly state and assess the possible implications of other dimensions of climate change, such as increased extreme storms, on any conveyance facility.
9. **All alternative facilities should be evaluated against a common level of seismic and flood durability.** This analysis should include not only effects on the facilities themselves as structures but the risks to other human uses of the Delta and the Delta ecosystem resulting from effects of earthquakes or floods on facilities.
10. **Incorporate water quality objectives in analyses.** Clearly evaluate the implications of alternative approaches to conveyance and to the proposed conservation program on water quality objectives for the Delta, and how these objectives will be affected by the various alternatives. These analyses should incorporate a full range of water quality issues, including salinity, temperature, dissolved oxygen, pesticides and toxics and turbidity.
11. **Ensure transparency and accountability in decisions.** Specify projected schedules for construction, the cost of the activities, and their funding sources. Include sufficient details to guarantee that ecosystem restoration and conservation measures will be fully and properly implemented. Devise assurances that the actions will be implemented, including, for example, directly incorporating actions into any and all state water contracts, and as conditions for receipt of bond funds, either for facility development or for ecosystem purposes. Concurrently, ensure that a system of adaptive management is implemented so that progress is monitored and decision makers can manage adaptively.
12. **Develop a baseline that reflects current conditions.** Analyses of alternative conveyance facilities and operations should be compared against a common baseline that reflects current operations and legal requirements.



THE LAST RIVER

Tapping California's largest source of water

By Barry Nelson
May 30, 2008

There is only one river left to slake the thirst of California, as the nation's most populous state keeps growing. The state's other rivers are tapped out. We need this last great river more than ever as global warming threatens to make longer, drier droughts the norm throughout the West. But you won't find California's last river on any map because it's a virtual river. It doesn't exist as a physical river, but that doesn't make it any less real.

One needn't look far to find the virtual river. It's just a Google search away. State water managers have known about it for years. In fact, they put it in California's State Water Plan for anyone to see. And they identified it as the largest source of new water supply in California, the largest source by far. Simply put, the virtual river is a combination of water-use efficiency, water recycling, improved groundwater management and advanced urban runoff management. The virtual river dwarfs all other options.

Why tapping the virtual river is not the top priority of every water leader in California is another story. It's a story that needs to change. The San Francisco Bay-Delta is in trouble, an ecosystem in the midst of collapse. We can't squeeze more water from the Delta without forcing a cascading series of fish extinctions – from salmon to sturgeon to Delta smelt. That's not just bad for fish; it's bad for people. A Delta too sick to support its fisheries can hardly be relied upon for clean water supply. That's why Delta farmers see the Delta smelt as the canary in their coal mine.

The situation on the Colorado River is equally dire. After decades of taking more than its share, California has had to reduce its take from the river as the six other states in the river basin have reasserted their claims. As it is, the river is so overdrafted that it dries up before it reaches the sea. Now the record drought in the Southwest could empty Lake Mead. Many hydrologists predict this massive man-made reservoir will never be full again.

In the last century, pioneering engineers, with names such as Mulholland and O'Shaughnessy, tapped mighty rivers to provide water supplies, without which the Golden State would not be what it is today. The state and federal water projects are engineering marvels. They made California home to the nation's most vital agricultural region and enabled growth of the world's seventh-largest economy.

California's future depends on another feat no less astounding than the dam-building projects of yore. Making the most of the virtual river will require a whole new mindset. It will require recognition that every water drop saved – whether by conservation, recycling or groundwater and storm water management – counts as water supply. Those drops add up to more than 7 million acre-feet of water a year. That is more than has ever been exported from the Delta – the largest single source of water in the state. It is larger than the American, the Merced and the San Joaquin rivers combined. Environmentalists and urban water agencies agree that no other future source comes close to the virtual river.

The virtual river offers many other benefits. It can save energy and reduce global warming pollution because vast amounts of energy are currently needed to pump water from the Delta and the Colorado River. Moreover, the virtual river is less vulnerable to global warming; shrinking snowpacks and extended droughts will not affect its flow. One of its headwaters – advanced urban runoff management – can help clean up Southern California beaches by capturing storm water runoff before it picks up contaminants and pollutes our coastal waters. Finally, the virtual river can help us leave water in our real rivers, helping to save the Bay-Delta and our salmon fishing heritage.

Like the rivers that provide water for California's cities today, the virtual river will not simply flow to our doors. Success will require carefully designed policies and leadership from all levels – from the governor, state and federal agencies, and the Legislature to regional and local water districts, local governments and individuals. Gov. Schwarzenegger's recent call for a reduction of California's per capita water use by 20 percent is an important first step.

We are at a turning point in water policy – and in California history. According to legend, Mark Twain once said that in California, “Whiskey is for drinking. Water is for fighting over.” We have had our share of water wars in California. However, tapping into this virtual river is a task that can unite the state, ensuring our future water supply and finally proving Twain wrong.

■ Nelson is director of the Natural Resources Defense Council's Western Water Project.