

**Lower Yolo Bypass Planning Forum  
BDCP Subcommittee Meeting #2**

**March 11, 2009  
Center for Collaborative Policy  
815 S Street, First Floor  
Sacramento, CA**

**Attendance**

Meeting Participants

Dave Feliz, DFG

Linda Fiack, DPC

Mike Hardesty, RD 2068/2098

Robin Kulakow, Yolo Basin Foundation

Julia McIver, Yolo County

Selby Mohr, Mound Farms

Erik Ringelberg, RD 999

Don Stevens, Glide-In-Ranch

Jan Vick, City of Rio Vista

Bob Webber, RD 999

Maria Wong, Yolo Natural Heritage  
Program

Greg Yarris, California Waterfowl  
Association

Jay Ziegler, Metropolitan Water District  
(MWD)

Staff

Dave Ceppos, Center for Collaborative  
Policy (CCP)

Charlotte Chorneau, CCP

Sam Magill, CCP

**Action Items**

1. BDCP Subcommittee members will submit information to Maria Wong, Yolo Natural Heritage Program, to aid in the Program's BDCP impact quantification exercise and agricultural productivity model.
2. Robin Kulakow, Yolo Basin Foundation, will send the multispecies alternative plans developed by stakeholders in the 2006 Yolo Bypass Interagency Working Group to Subcommittee members.

**Welcome, Agenda and Objectives Review**

Sam Magill, CCP, reviewed the agenda and objectives for the second Bay Delta Conservation Plan (BDCP) Subcommittee (Subcommittee) meeting. The objectives for the meeting are to first develop a strategy for engaging the BDCP Principles in direct collaboration on Conservation Measure impacts, objectives and alternatives; and second to begin prioritizing Subcommittee-developed Conservation Measure impacts and alternatives. Mr. Magill explained that the goal of the second BDCP Subcommittee meeting is to move forward with a unified approach to coordinating the planning forum's efforts with the BDCP.

## Master List of Impacts and Alternatives

The Subcommittee reviewed Attachment A: Lower Yolo Bypass Planning Forum DBCP Conservation Measures Subcommittee – Conservation Measures Impacts, Challenges, and Objectives. The impacts, challenges, and objectives in the document were developed during the first meeting of the Subcommittee on February 24<sup>th</sup>. Mr. Magill directed Subcommittee members to review the document and suggest any changes or additions to the existing list.

### Discussion:

- Jay Ziegler suggested noting the extent to which the model is incorporating sea level change as an impact to the Lower Yolo Bypass.
- Linda Fiack, DPC, noted the consistency with the CALFED Ecosystem Restoration Program (ERP), and expressed her support for this policy alignment.
- Robin Kulakow, Yolo Basin Foundation, suggested the addition of “impacts to the flood control function of the Bypass” to the potential challenges category as well as to the studies needed category. She also noted flood control impacts to nesting habitat especially ground nesting birds.
- Don Stevens, Glide-In-Ranch, pointed out that the flow levels identified on BDCP Yolo Bypass inundation maps depicting property flooding show flooding on property that would not actually be inundated under low flow (less than 2,000 cfs) conditions. Mr. Steven’s added that in his experience, it takes a higher flow to flood at the levels described. The group identified this as a data gap warranting further study.
- Subcommittee members asked that terrestrial species (in addition to upland species) be added to the list to have term consistency with the BDCP plan.
- Cache Slough concerns should be discussed. Mr. Magill noted that the subject is on the agenda for Subcommittee Meeting #3.
- Ms. Fiack noted that the mention of Putah Creek may be too specific.
- Mr. Ziegler pointed out that conservation opportunities should be discussed both temporally and spatially. Established mandates require that near term opportunities for habitat and split tail restoration should be addressed separately from long term conservation goals.
  - o Julia McIver, Yolo County, noted that the implementation action is an effort being pursued separately from, though it will be folded into, the BDCP process.
- Erik Ringleberg, RD 999, proposed adding the discontinuity of flow as an impact. BDCP consultants are modeling re-contouring of the toe drain and its adjacent channels.
- Mike Hardest suggested that an additional threat is inadequate safe harbor provisions, which need to be strengthened. Safe harbor from the legal standpoint is not enough to protect anyone, and needs a commitment to allow incidental take or an order to back it up.
- Mr. Stevens remarked that one objective to include is the need to maintain sufficient outflow for juvenile fish to reach Suisun Bay.
- Inundation of the Bypass should be included as a general threat or challenge.

Comment [s1]: For what?

Comment [s2]: Which implementation action?

Comment [s3]: Need additional info

Comment [s4]: Back what up?

- The Putah Creek realignment proposal is north of the canal below the toe drain and would still be on public land. Selby Mohr pointed out that the area would have to be tidally influenced in order to sustain Delta smelt. Constructing this type of habitat would be very expensive to accomplish.
- Mr. Mohr suggested picking a point in time to establish the value of agriculture in the Bypass, as the \$20 million cited by the Yolo County Agricultural Commissioner does seem to be a large enough number.
- Subcommittee members noted that adjacent lands are going to experience more seepage that will affect the agriculture viability. Increasing the height of the water table will require pumping and increase power costs, reducing the profitability of agriculture in the area.
- Mr. Stevens suggested that the list address the methyl mercury issue.
- Ms. Kulakow proposed that potential adverse impacts to Giant Garter Snake and other species be added to the list.
- Late flooding destroys native grasslands and negatively affects ranching/grazing opportunities in the Bypass.
- Third party economic impacts, such as effects on other businesses, should be addressed under impacts.
- From the Duck Club perspective, impacts could be minimized if flooding was limited to the February 1<sup>st</sup> – March 15<sup>th</sup> window.
- Ms. Wong noted that the Yolo Natural Heritage Program is working on quantifying the impact of the BDCP Conservation Measures on the Yolo County landscape. The quantification process is 40 percent finished and has been based on public Geographic Information System (GIS) data. Ms. Wong mentioned that the Yolo Natural Heritage Program is also developing an agriculture production and probability model on the parcel level. Subcommittee members were asked to supply any information they have on private lands that could benefit either process (**see Action Item #1**).

### **Discussion: Prioritization of Subcommittee Impacts and Alternatives for BDCP Principals Discussion**

Ms. Fiack suggested beginning this process by organizing the laundry list by opportunities and threats.

#### Goals for meeting with the Principals

- Commitment to work with the Planning Forum on developing multispecies alternatives.
- Ms. Wong noted that BDCP will be unveiling their conservation plan and targets. She feels that the time to engage them has expired, as the BDCP process is past the pre NEPA stage.

#### Points to Leverage

- Ms. Kulakow mentioned that multispecies alternative plans developed by stakeholders exist including one from the 2006 Yolo Bypass Interagency Working

Group. Ms. Kulakow will forward the report to the group for reference (see **Action Item #2**).

- Ms. Fiack suggested that the methyl mercury Total Maximum Daily Load (TMDL) process could serve as a model for engaging BDCP Principals. Initially several people worked with the SWRCB staff and held formal pre comment meetings to address a lot of the document before it went out to the public. This process also benefited the Water Boards as they were able to prevent public misinterpretation of the document and backlash.
- Ms. McIver noted that Resource Agency Secretary Mike Chrisman sent a letter to the five Delta county Boards of Supervisors announcing the intent of the Resource Agency to enter into a coordinating agreement with the each of the five counties.

Dave Ceppos stressed the importance of developing a prioritized list of impacts and challenges to the BDCP Principals. He then asked Subcommittee members to provide input on possible approaches for engaging the Principals:

- Make statements rather than requests.
- State that the Planning Forum has established the table and the process for engagement and that BDCP needs to participate.
- Ms. Kulakow suggested taking a version of the draft letter and stating that the Planning Forum expects to work with BDCP, describe the data that the Planning Forum can provide and the suggested solutions and alternatives.
- Subcommittee members remarked that Kim Delphino, (BDCP Steering Committee Member) has suggested that the Planning Forum members attend the Steering Committee meetings to provide alternatives to such proposed actions as the Fremont Weir modification. Ms. Wong mentioned that she normally attends these meetings and does not find the level of engagement adequate.
- The Subcommittee needs to identify aspects of the process that are still open for influence rather than trying to reopen closed issues in the process.
- Make comments in a transparent way so that they are not lost in the process.
- Present the plans and data the Planning Forum has collected to the BDCP in the context of the current budget situation and play up the time and resources the Planning Forum would save them.
- Elevate efforts beyond staff and directly to the Principals.
- Write off the BDCP Conservation plan and go directly to the legislature.
- Convince BDCP that local participation is necessary. Without local support and involvement the process is sure to be challenged.
- Ms. McIver mentioned that the mandate of BDCP is to come up with the conservation plan for the crashing ecosystem of the Delta and in a holistic picture of the infrastructure and does not need to directly engage the Planning Forum. The Planning Forum, which was convened to assemble an alternative plan for the Lower Yolo Bypass, has to realize that they cannot reach the BDCP process.
- The driver of the process is not the health of the Delta but rather water delivery.
- Using a top down approach would provide the opportunity to be partners.
- Present the Planning Forum as a body that will bend over backwards to help the BDCP achieve their goals.

- Request the meeting, even if the group feels they will be turned down, to get it on the record that this action was taken and the help was offered. Being denied would be a powerful statement.
- Make strides to insure that a stakeholder involvement process is authentic, unlike other processes such as Delta Vision where stakeholders felt an unauthentic process was passed off as location participation and buy in.

#### Best Alternative to a Negotiate Agreement (BATNA)

- Litigation
- Mike Hardesty, RD 2068/2098, mentioned that the group does not need to be explicate in articulating their BATNA or about the outcome of failed engagement because this is common knowledge, and the group should instead concentrate on preferred outcomes.
- Delaying the outcomes longer through litigation would not be desirable.

#### Points to Include in the Letter

- Interest must be heard
- Challenges must be addressed
- Gain/loss must be understood
- Alternatives for mutual gain

#### One time meeting vs. series of meetings

- Dave Ceppos, CCP, explained that deciding on the meeting expectations will help set the tone, and create the framework and scope.
- Bob Webber, RD 999, stated that he assumed it would be a one time meeting, because he feels that the BDCP process is not transparent or open to input. He suggested aligning themselves with the five counties now that they are in coordination with the Resources Agency.

#### Who to Engage / Who are the Drivers

- Potentially Regulated Entities (PREs)
  - o The voting structure is weighted toward the PREs who are the deciding subset of the Steering Committee.
  - o Laura King specifically.
  - o Mr. Webber suggested that the PREs are cannot separate themselves from their ultimate goal of obtaining water permits.
  - o The Planning Forum has a lot of common ground with the PREs, yet in past attempts at negotiation have not been successful because the PREs do not feel they are at that point in their process.
- Avoid the Leadership Committee
- Secretary Chrisman
- State Water Contractors Board
- Legislature
- State Senator Lois Wolk
  - o Advance commitment from Ms. Wolk to attend the meeting may generate BDCP willingness to participate.

- Use media as a tool to inspire compliance
  - o Matt Weiser, Sacramento Bee journalist
  - o Mr. Ringelberg mentioned that the media is a blunt tool and should only be used as a last resort.

## **Next Steps**

Mr. Ceppos proposed that the facilitation team write another draft letter incorporating the key points from the Subcommittee discussion. The facilitation team will conduct research and propose alternatives of other bodies and groups which the Planning Forum can approach.

Ms. Kulakow suggested that the Subcommittee prep for the next meeting by complying more specific data and materials.

Dave Feliz, DFG, mentioned that the boundaries of the BDCP study area need to be expanded to reflect the larger study area identified in the Delta Vision process. Mr. Ziegler agreed that some of the solutions are outside of the of the BDCP process boundaries.

Mr. Ceppos remarked that there is a difference between arguing for a specific solution and arguing that the right people be included in the discussion. Having the right people in the room will enhance the success of the overall plan.