

REPORT TO THE GOVERNOR AND THE LEGISLATURE

ON 1999 ACTIVITIES OF THE DELTA PROTECTION COMMISSION

Section 29780 of the Delta Protection Act of 1992 (Act) requires the Delta Protection Commission (Commission) to submit an annual report to the Governor and the Legislature describing the progress in achieving the objectives of the Act. The annual report is to include: an evaluation of the effectiveness of the regional plan in preserving agricultural lands, restoring Delta habitat, improving levee protection and water quality, providing increased public access and recreational opportunities, and undertaking other functions prescribed in the Act; an update of the regional plan using baseline conditions set forth in the regional plan; and the status of the environmental thresholds established by the Commission in the original regional plan.

Status of the Delta Protection Commission:

The Commission was created by the State Legislature in 1992 with the goal of developing regional policies for the Delta to protect and enhance the existing land uses in the Primary Zone: agriculture, wildlife habitat, and recreation. Working closely with local communities and local governments, the Commission adopted its regional plan in 1995. Local government incorporation of the policies and one regulation in the Plan was completed in 1998. There have been no changes to the Plan in 1999.

The Commission met six times in 1999, in January, March, May, July, August and November.

In 1999, Senator Johnston sponsored legislation (SB 750) to amend the Delta Protection Act of 1992 to include the new City of Oakley (Contra Costa County) and any other new cities created in the Primary Zone of the Delta in the list of "local governments" which must ensure that their General Plans are consistent with the Commission's Plan. The bill was passed and became effective January 1, 2000.

The Commission was active in an advisory capacity monitoring the State and federal CALFED process, and the proposed impact to land uses in the Delta Primary Zone. At the end of the year, the Commission was asked by Resources Secretary Mary Nichols to participate on the CALFED Policy Group. The Chairman designated the Executive Director as the representative of the Commission. The Commission's active participation started when Ms Aramburu attended the December Policy Group meeting.

Status of the Land Use and Resource Management Plan:

There were no amendments of the Plan or amendments of the Local Government General Plans in 1999.

Effectiveness of the Plan:

1. Preserving Agricultural Land in the Primary Zone

Actions to preserve agricultural land continue to involve three major interests: non-profit groups, local governments, and the State. Non-profit groups exist in all five Delta Counties with the goal of protecting agricultural lands through acquisition of agricultural easements. While a few agricultural easements have been acquired in the past, none were acquired in 1999.

Local governments continue to protect agricultural land through their General Plans and zoning ordinances.

The State of California has continued its Agricultural Land Stewardship Grant program (now called the California Farmland Conservancy Program) for local governments and non-profits for acquisition of agricultural conservation easements. In FY99-00, \$ 13.3 million was available for acquisition of easements and for planning grants; \$9.3 million remains; one project in the Delta is under review (Cosumnes Preserve). The City of Brentwood and the City of Lodi are also discussing projects with DOC staff.

In May, the Commission received a briefing on the new "Super Williamson Act" from John Gamper of the California Farm Bureau Federation and Steve Oliva of the Department of Conservation. The new program, approved in 1998 as SB 1182 (Costa) allows local governments to sign 20 year contracts with landowners to protect agricultural land. The program is voluntary for each County and would give landowners an additional 35% off of their property taxes.

2. Conversion of Agricultural Land in the Primary Zone to Habitat

In 1999, the largest potential impact to agricultural lands in the Primary Zone was proposals to restore/recreate habitat on agricultural lands.

The CALFED program includes an aggressive program of habitat restoration. The Commission adopted and submitted written comments on the Revised Draft Programmatic Environmental Impact Statement/Environmental Impact Report which addressed the loss of agricultural lands in the Legal Delta, with no mitigation for that loss; the need to have required environmental review prior to land acquisitions; and how ongoing restoration and mitigation efforts at the local level fit into the goals of the Ecosystem Restoration Program.

Large habitat enhancement projects throughout the Delta are still pending including proposals by Department of Water Resources to convert much of Sherman and Twitchell Islands to managed wetlands, and the Delta Wetlands project which would convert much of Bouldin and Holland Islands to managed wetland habitat and convert Webb and Bacon Islands to reservoirs.

The U.S. Fish and Wildlife Service's Stone Lakes Wildlife Refuge proposes to ultimately have 9,000 acres of land to the north of Lambert Road in public ownership and 9,000 acres south of Lambert Road in private ownership managed under agreements with the Service. In the north, approximately 6,000 acres are in public ownership by State and local governments, and approximately 1,000 acres are owned by the Service. The refuge is slated to receive ownership of a 71-acre mitigation site for wetland fill in the Elliott Ranch Lakeside project out of the Delta (June 1999).

In January, the U.S. Fish and Wildlife Service briefed the Commission on the proposed North Delta National Wildlife Refuge. The study area is 50,000 acres in Solano and Yolo Counties and includes most of the Yolo Bypass in the Delta. The refuge would include the Prospect Island habitat restoration project. The Fish and Wildlife Service obtained a grant from CALFED for acquisition of Liberty Island, also to be included in the proposed refuge. The funds were transferred to the Trust for Public Land which has acquired the site and is holding the property until environmental review is completed. In March the Natural Resource Conservation

Service acquired a conservation easement on 563 acres of land on Liberty Farms in Solano County. That site is proposed for inclusion in the proposed refuge.

In July, the Commission received a second briefing on the proposed North Delta National Wildlife Refuge. Issues raised by the Commission included:

- The need for adequate time for review and comment on the draft environmental assessment.
- Concerns about impacts to agriculture in the Primary Zone of the Delta.
- Incorporation of local control in the refuge proposal.
- Wildlife habitat must be in balance with other uses.
- Recreation should be included in the refuge design and management.

The environmental assessment for the proposed refuge was released on December 23, 1999. The Commission will be reviewing the proposed project in January 2000.

In July, the Commission received a briefing by the staff of the Corps of Engineers on the proposed restoration of Prospect Island to tidal wetland habitat. The proposed project would strengthen the eastern levees and break the levees to allow restoration of habitat to about 1,200 acres of former farmland. Concerns were raised by landowners on Ryer Island about seepage issues on Ryer Island associated with flooding of Prospect Island.

3. Conversion of Agricultural Lands in the Primary Zone to Other Uses

The five Delta counties approved no projects to convert agricultural lands in the Primary Zone to other uses. Local governments approved gas extraction projects, marina expansion projects, park expansion projects, and some subdivisions in the Primary Zone.

4. Restoring Delta Habitat

The Commission staff has been actively participating in the San Francisco Estuary Project's Delta Work Group that has been developing a pilot project for protecting and enhancing Delta in-channel islands. The group received a Category III grant from the CALFED project in 1997. In 1998, the group signed the contract for the funds, retained a staff person from Department of Water Resources to serve as project manager, released a Request for Qualifications, and selected a team to carry out Phase I of the project (design and permitting), and applied for funding for Phase II (construction and monitoring).

The CALFED Category III program funded several habitat enhancement projects in the Primary Zone which are at various stages. CALFED has funded acquisition of land in the Primary Zone, with the long-term goal of restoring Delta habitat. CALFED gave a grant to the Nature Conservancy for acquisition of McCormack Williamson Tract, a 1,500 acre island in the eastern Delta in Sacramento County. The site will be used for habitat restoration and for flood control. Escrow closed on the acquisition in September 1999.

Protecting Recreational Opportunities

Staff of the Delta Protection Commission has been working with staff of CALFED, staff of Department of Boating and Waterways, staff of Department of Parks and Recreation, and several boating and fishing groups on development of general and specific recreation opportunities for incorporation into the CALFED program. This Ad Hoc Recreation Group met eight times in 1999 and has submitted comments on the environmental document, and on the proposed North and South Delta bundles of actions (Stage 1A).

5. Improving Levee Protection

The Commission staff has continued to participate in the Secretary for Resources' Delta Levees and Habitat Advisory Committee's meetings to coordinate and streamline permitting associated with Delta levee maintenance. The Committee helps provide oversight to the levee subventions program (SB 34, SB 1065, and AB 360). In addition to attending the meetings, Delta Protection Commission staff prepares meeting agendas and minutes, and maintains the mailing list.

The levee subvention program has continued to be underfunded, even as the geographic extent of the program has been expanded. Thirty million dollars for Delta levee maintenance has been included in the Water Bond on the March 2000 ballot. The CALFED program proposes to incorporate the existing program into the CALFED levee program after the Record of Decision is signed. Future funds would be developed as part of the CALFED program.

The Corps of Engineers undertook many levee repair projects during 1999. Projects included work in Sacramento, San Joaquin, Solano, and Yolo Counties.

The Delta Protection Commission is one of three State agencies (Department of Fish and Game and Central Valley Regional Water Quality Control Board) contracted to carry out a CALFED-funded study to develop a Delta Dredging and Reuse Strategy. The group will be studying reuse of material dredged in the Delta for levee maintenance and habitat restoration projects. The Commission staff will carry out administrative tasks for the study. The contracts were signed in 1999, and the study's Technical Advisory Panel had its first meeting in November.

6. Improving Water Quality

Staff prepared and presented to the Commission several updates on the Grasslands Bypass Project, which redirects drain waters containing selenium, boron and other salts into the San Luis Drain, and eventually into the San Joaquin River and then the Delta.

Legal Issues:

On January 18, 1999, the Office of Administrative Law notified the Commission that Tri-Tac's challenge of the Commission's Utilities and Infrastructure Policy P-3 was without merit because the Policy had been adopted by the Commission as a regulation.

Legislation:

In January, Commissioner Brodrick of the Department of Fish and Game briefed the Commission on Proposition 4 that prohibits use of Leg Hold Traps in the State of California under most circumstances.

The Commission directed staff to seek two amendments to the Delta Protection Act: one to eliminate term limits for Commissioners and one to exempt the Commission's Plan from processing as regulations under the Administrative Procedures Act.

In May, the Commission took a position of support on Assembly Member's Machado's bill, AB 1521, which would provide \$50 million for the on-going State levee subvention program for the next two years. The bill did not pass out of committee, but funding was included in the Annual Budget Act.

Actions Supporting the Goals of the Act:

1. Delta In-Channel Islands

The Commission continues to act as a sponsor for the San Francisco Estuary Project's regional meetings to forward the goals and programs of the Comprehensive Conservation and Management Plan for the Bay and Delta. The Delta work group has focused on protection and enhancement of Delta in-channel islands, the last remnants of historic Delta wetland habitat.

In 1997, the work group received notice that it would receive a Category III grant for phase one of the project--design, environmental review and permits, and 1998, the group selected a team of consultants to design the project and apply for permits and approvals for construction. In 1999, all these tasks were completed including approval of an environmental document and receipt of all needed permits. In 1999, the group's Category III grant application for construction funds was not approved, and additional information requested by CALFED. The group pursued funds from an EPA grant program and the National Fish and Wildlife Foundation. Funds were obtained to construct a portion of the project (one island near Webb Tract), however the "window" for construction in the waters of the Delta closed and no time extension was offered. That portion of the project will be constructed next summer.

2. Geographic Information System

The Commission continues to maintain and add to its geographic information system to monitor activities and land use changes in the Delta with the assistance of Teale Data Center, the Commission's contractor. Data has been requested by CALFED and is being used in the planning program.

In addition, the Commission hosts a web site (<http://www.delta.ca.gov>) which makes available meeting dates, Commission roster, annual reports, the Commission's Plan, the Delta Protection Act of 1992, other reports, and maps of the Delta. The public may order 24" by 36" color maps of the Delta on the web site.

3. Monthly Pending Projects Memo

Staff prepares a monthly memo that lists and describes projects in the Delta area. Projects listed include projects in the Primary Zone, and projects in the Secondary Zone and near the Delta which could impact the Delta and its land uses. The memo is distributed to local planning departments and to other interested parties.

4. Monitoring Acquisition of Land by Public Agencies and Nonprofit Groups

In May, staff presented a memo that described lands owned by public agencies and nonprofit groups in the Primary Zone as of January 1993 when the Commission first met and lands acquired since that date. The memo was updated in November. The total acres owned by public agencies and nonprofits groups is now 55,992 acres (which includes some water-covered areas), about 11.5% of the Primary Zone (this does not include the beds of waterways or areas under conservation easements). The Primary Zone includes 487,725 acres of land and water-covered areas.

7. Monitoring the San Luis Drain and the Grasslands Bypass Project

Staff prepared and presented to the Commission several updates on the Grasslands Bypass Project that redirects drain waters containing selenium, boron, and other salts into the San Luis Drain. The updates included information from monthly reports circulated by the U.S. Bureau of Reclamation, San Francisco Estuary Institute, and the Central Valley Regional Water Quality Control Board, as well as from Grasslands Bypass Project Oversight Committee meetings which staff attended. The grassland reports are now available on the Internet at:

<http://www.mp.usbr.gov/mp150/grassland/HomePage/Homepage.html>

8. Monitoring Pending State Legislation

Staff prepared and presented to the Commission regular updates on pending legislation which would affect the Delta, or land uses in the Delta. Bills of particular interest included:

- AB 1584 (Machado, Costa): Safe Drinking Water, Clean Water, Watershed Protection, and Flood Protection Act. \$1.97 billion to finance drinking water, water quality, flood protection and water supply reliability program. To be submitted to voters at March 7, 2000 election.
- AB 18 (Villaraigosa, Keeley): \$2.1 billion for financing a program for acquisition and improvement of State and urban parks, clean water protection, and coastal beaches and scenic areas. To be submitted to voters at March 7, 2000 election.
- SB750 (Johnston): Delta Protection Act: Revision of definition of "local government" to include the City of Oakley and any other cities incorporated in the Primary Zone in the future.

Pending two-year Bills include:

- AB 732 (Machado): Water Transfer Clearinghouse: A task force would be appointed to review third-party impacts of water transfers and to investigate the establishment of a water-transfer clearinghouse.
- AB 786 (Machado): San Joaquin River Agreement. The legislation would implement the Vernalis Adaptive Management plan simultaneously with a comprehensive program to improve water quality and supply in the South Delta region and increased dissolved oxygen concentration in the lower San Joaquin River.
- AB 909 (Machado): California Bay-Delta Commission. Creation of California Bay-Delta Commission to carry out the proposed CALFED Program.

9. Monitoring CALFED Planning Process

In January, Dick Daniel of the CALFED staff briefed the Commission on the Revised Phase II Report and the Ecosystem Restoration Program Plan.

At the March meeting the Commission discussed and adopted comments on the Revised Phase II Report.

In May, the Commission received a briefing on the CALFED Category III Grant Applications. CALFED required that applicants in the April 1999 round of grant applications notify the Commission of projects in the Legal Delta.

In July and August, the Commission discussed the Revised Draft Environmental Impact Report/Environmental Impact Statement. The Commission's comments, submitted in a letter dated September 15, 1999, outlined the Commission unique role in the Delta and offered to assist CALFED by providing a public forum for comments on aspects of the CALFED program located in the Delta. The Commission also indicated that most of CALFED's preferred alternative appears to be consistent with the Commission's Land Use and Resources Management Plan. The Commission expressed concerns about:

- Loss of agricultural lands in the Legal Delta with no mitigation for that loss;
- Postponement of recreational planning to project level implementation of the program resulting in a lost opportunity for planning new recreational facilities and activities as part of the CALFED program;
- The need to have required environmental review prior to land acquisitions; and
- How ongoing restoration and mitigation efforts at the local level fit into the goals of the Ecosystem Restoration Program.

In November, CALFED staff briefed the Commission on proposed Stage IA actions in the South Delta. The proposed actions include dredging, a joint point of diversion of both State and federal water programs, a new fish screen at Tracy, ecosystem restoration, development of solutions for the Stockton dissolved oxygen problem, implementation of the Vernalis Adaptive Management Plan, a fish barrier at the head of old river, barriers to address water quality problems in the South Delta, and improvement of export water quality for Contra Costa Water District.

In November, the Commission discussed the CALFED governance proposal to create a new State-federal-stakeholder agency to oversee implementation of the CALFED program.

Throughout the year, the Commission monitored the Ecosystem Restoration grant program funded by Proposition 204 and federal budget funds. Several briefing memos were presented to the Commission, and staff periodically updated the memo on the status of the Category III projects in the Delta. Projects funded in the Delta in 1999 include: monitoring the Prospect Island project, flood studies on the Cosumnes and Mokelumne Rivers, acquisition of McCormack Williamson Tract and studies of that site, study of Mercury impacts, habitat enhancement on Georgiana Slough, study of pesticide effects on fish, study of dissolved oxygen in San Joaquin River,

study of organic carbon in Delta wetlands, study of Mitten Crab, study of Purple Loosestrife (plant), inundation of a section of the Yolo Bypass, development of a habitat project on Canal Ranch, acquisition of properties on Liberty Island, and restoration planning for Liberty Island.

10. Raising Awareness of Exotic Species:

Staff participated in the efforts of CALFED's Non-Native Invasive Species Technical Team, which prepared a Strategic Plan and Implementation Plan to direct proposal solicitations and designated actions dealing with exotic invasive species in the CALFED Solution Area, including the Delta.

11. Conservation Easements to Protect Habitat:

The Commission discussed accepting a conservation easement on Fern-Headreach Island in the Deepwater Channel in San Joaquin County. The conservation easement is part of a habitat enhancement project. However, the landowner eventually decided to have the Department of Fish and Game hold the conservation easement.

The Commission currently holds one conservation easement for habitat berms adjacent to Staten Island in San Joaquin County.

One conservation easement was acquired in the Primary Zone by the Natural Resources Conservation Service. The easement, on Liberty Farms (RD 2098) in Solano County, will result in 563 acres of restored habitat.

Appeal of Local Government Decisions:

No local government decisions were appealed to the Commission in 1999.

Commission Members:

There were three changes to the Commission roster in 1999. City Council Member Gloryanna Rhodes of the City of Lathrop left the Commission and Mayor Pro Tem Barbara Matthews from the City of Tracy was appointed to represent the San Joaquin County Council of Governments. Supervisor George Barber of San Joaquin County retired from the Board, and Supervisor Ed Simas rejoined the Commission. Commissioner Bob Potter retired from State service, and Marci Coglianese was appointed to represent Tom Hannigan, the new Director of the Department of Water Resources.

In March, Patrick N. McCarty, representing the Central Delta Water Agency, was reelected Chairman, and Steven Mello, representing the North Delta Water Agency, was reelected Vice Chairman.

The Commissioners receive no compensation for their work on the Commission.

Subcommittees: Subcommittees are open to all Commissioners and members of the public. Subcommittees meet as needed.

Budget, Finance and Administration Subcommittee: Chairman McCarty, Commissioners Ferreira, Calone, Salmon, and Yates.

CALFED Subcommittee: Vice Chair Mello, Commissioners Yates, Nottoli, and Curry.

Status of the Commission's Loan from the Environmental License Plate Fund:

The Delta Protection Act of 1992 included a loan of \$250,000 from the Environmental License Plate Fund (ELPF) for costs incurred for organization and operation of the Commission. The loan was to be repaid by December 31, 1998. To repay the loan, the Commission designated funds from the 10% penalty assessment on fines imposed for violations in the Delta, and asked that unexpended funds from the Commission's annual budget be allocated toward repayment of the original loan. Not all the unexpended funds were paid against the loan, however, the Commission submitted a letter to the Secretary for Resources and Department of Finance stating to the best of its ability, the Commission has attempted to repay the loan and meet its fiscal responsibilities.

In a letter dated April 23, 1999, the Department of Finance concurred that the Commission, to the best of its ability, successfully repaid the \$250,000 ELPF loan.

Administration:

The Commission office is located in Walnut Grove, in Sacramento County. Margit Aramburu serves as Executive Director; Debra Eddy as Staff Services Analyst, and Lori Clamurro as Environmental Services Intern.

Dan Siegel, Deputy Attorney General, with assistance from Carla Caruso and Christine Sproul, provided legal support for the Commission.

The annual report covers portions of two fiscal years: FY 98-99 and FY 99-00. In both years, the Commission received \$287,000 from the Environmental License Plate Fund and the Harbors and Watercraft Revolving Fund. The Commission's expenses rose slightly to approximately \$20,500 per month.

All Commissioners and the Executive Director completed new State mandated ethics training by December 31, 1999.

1999 COMMISSION ROSTER

Contra Costa County Board of Supervisors:

Supervisor Joe Canciamilla

Sacramento County Board of Supervisors:

Supervisor Don Nottoli

San Joaquin County Board of Supervisors:

Supervisor George Barber *

Supervisor Ed Simas

Solano County Board of Supervisors:

Supervisor Skip Thomson

Yolo County Board of Supervisors:

Supervisor Mike McGowan

Sacramento and Yolo County Cities:

Mayor Christopher Cabaldon, City of West Sacramento

San Joaquin County Cities:

Council Member Gloryanna Rhodes *

Mayor Pro Tem Barbara Matthews

Contra Costa and Solano County Cities:

Mayor Fred Harris, City of Rio Vista

North Delta Water Agency Reclamation District (two seats):

Darrell Ferreira, Grand Island

Steve Mello, Tyler Island, Vice Chair

West Delta Reclamation Districts:

Robert Calone, Winter Island

Central Delta Water Agency Reclamation Districts:

Patrick N. McCarty, Chairman

South Delta Water Agency Reclamation Districts:

Bill Salmon, Union Island

Department of Parks and Recreation:

Ron Brean, District Manager, Gold Rush District

Department of Fish and Game:

Ryan Broddrick, Chief Deputy Director

Department of Food and Agriculture:

A. J. Yates, Undersecretary

State Lands Commission:

Dwight Sanders, Chief, Division of Environmental Planning and Management

Department of Boating and Waterways:

Bill Curry, Senior Civil Engineer, Boating Facilities Division

Department of Water Resources:

Robert Potter, Chief Deputy Director *

Marci Coglianesse

* Indicates Commissioners no longer serving on the Delta Protection Commission.

Projects Approved in Delta Primary Zone in 1999

Multi-County		
Seismic Survey	Texaco Exploration	Central Delta
Natural Gas Pipeline	Delta Gas Gathering	Grand and Ryer Islands
In Channel Island Demonstration Project	San Francisco Estuary Project	Webb Tract and Little Tinsley Island
Triennial Review of the Water Quality Control Plan	Central Valley Regional Water Quality Control Board	Deltawide
Nonpoint Source Pollution Control Program	State Water Resources Control Board	Deltawide
Metropolitan Transportation Plan (20 Year Plan)	SACOG	Sacramento, Yolo and Solano
Implement 1995 Bay/Delta Water Quality Control Plan	State Water Resources Control Board	Deltawide
Contra Costa County		
Discharge Cooling Water (9,000 to 18,000 gpd)	Kemwater North America	Antioch, San Joaquin River
Sacramento County		

Subdivision (1,099 acres into 2 parcels) *	Chevron	Brannan Island
Improve Existing County Park *	Sacramento County	Tip of Sherman Island
Riparian Vegetation Demonstration Project (1,000 linear feet)	RD 3	Grand Island
Levee Repair	Brannan Andrus Levee Maintenance District	Brannan Andrus Island
Levee Repair	RD 1601	Twitchell Island
Levee Repair Modify Mitigation for Lakeside Project (Relocate mitigation to 71 acres in Stone Lakes National Wildlife Refuge)	RD 3 Tracy Development Association	Grand Island Laguna Area
San Joaquin County		
Swimming Area *	Lost Isle Resort	Acker Island, San Joaquin River
Dry Boat Storage (40,500 sq ft) *	Honker Cut Marina	King Island
Wastewater Releases (treat at tertiary level and discharge up to 5.4 mgd into Old River) *	Mountain House	Old River
Levee Repair	RD 544	San Joaquin and Old Rivers
Amend Zoning Code (allow RV and Boat storage within one mile of recreation area/launch ramp in commercial zone) *	C. Jacobs	Deltawide
Solano County		
Marina Upgrade *	Arrowhead Marina	North of Ryer Island
Levee Repair	RD 2069 and RD 2098	Yolo Bypass, Cache and Haas Sloughs
Levee Repair	RD 501	Ryer Island
Yolo County		
Subdivision (6.5 acres into 4 lots) *	C. Pacheco	Clarksburg
Revise Winery Ordinance *		Countywide
Zoning Code Amendment (increase minimum parcel size for erg parcels) *		Countywide

* Projects approved by Local Governments.

Lands Acquired by Government Agencies or Nonprofits in 1999

Location	Entity	Acres
McCormack Williamson Tract, Sacramento County	Nature Conservancy	1,654

Big Break-West, Contra Costa County	East Bay Regional Park District	688
Delta Meadows, Sacramento County	Department of Parks and Recreation	263
Liberty Island, Solano and Yolo Counties	Trust for Public Lands	1,760
Little Holland Tract, Solano and Yolo Counties	Corps of Engineers	1,640
Liberty Farms, Solano County	Natural Resource Conservation Service	563 (Conservation Easement)
		TOTAL: 6,568