

**Meeting of the Central Valley Flood Protection Board
September 25, 2015**

**Staff Report
Adoption of Board Consultation Guidance with the Delta Stewardship Council
Regarding the Delta Levee Investment Strategy**

1.0 – REQUESTED ACTION

Adopt the attached Board Consultation Guidance for use in collaborating with and providing comments to the Delta Stewardship Council to determine priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are a part of the State Plan of Flood Control and non-project levees, pursuant to Water Code § 85306.

2.0 – BACKGROUND

The Sacramento – San Joaquin Delta (Delta) is the end of the line for northern California's flood protection system. A vast mazelike system of islands and marshes, it is a region where two of California's largest rivers meet before they exit through the San Francisco Bay. It also provides habitat for endangered species, and provides water for nearly two out of three Californians. It is a unique place, important for its distinctive characteristics as well as its utility as a flood protection and water supply system.

The islands of the Delta are protected by an intricate series of levees, some locally owned and maintained and others part of the State Plan of Flood Control (SPFC). Out of approximately 1,115 miles of levees protecting 700,000 acres of lowland in the Delta, about a third of the levees (385 miles) are SPFC levees which were part of an authorized federal flood control project of the Sacramento and San Joaquin River systems. The remaining Delta levees (about 730 miles), and all of the Suisun Marsh levees (about 230 miles) are non-project (local) levees.

The Delta Reform Act, specifically Water Code Section 85306, requires the Delta Stewardship Council (Council), in consultation with the Central Valley Flood Protection Board (Board), to recommend priorities for state investments in levee operation, maintenance, and improvements in the Delta, including both levees that are part of the State Plan of Flood Control and non-project levees.

The Council has developed a draft policy to guide the project planning process, contracted with a consultant to build a computer-based decision-making tool, and will be preparing a report outlining the investment options to be included in the next Delta Plan update. Board technical staff has contributed to the project to date, and the project is at the point where policy considerations and guidance from the Board is necessary.

The Board conducted a workshop in July to develop a set of principles based upon public safety priorities that the Board can use to frame discussions with and provide input to Council staff, consultants and others to ensure that public safety and flood reduction awareness continue to be a considerable part of this planning process. Stakeholder participation at the workshop was excellent and ideas from local flood control interest groups, Delta landowners, and Delta Protection Commission, Department of Water Resources and Council staff helped focus the themes.

The Board expressed support for the pursuit of a single State investment strategy that: recognizes there are plans and projects, such as the Delta Subventions Program, already at work in the Delta and throughout the system; considers existing policy and priorities; and includes an analysis of those existing strategies and programs as a baseline to discuss any recommended changes.

Board members emphasized that systemwide needs include the priorities outlined in the 2012 Central Valley Flood Protection Plan, and that the recommendations in this valley-wide planning document must remain part of the discussion as the DLIS is developed. The Board members expressed an interest in a document that includes a chart of timeframes, including “near term”, “mid-term” and “long term” planning horizons, the major decisions anticipated in each, and how predicted climate change, subsidence, earthquakes, and future flooding events will be incorporated into the DLIS.

The idea of qualitative risk reduction versus the type of quantitative risk reduction calculations used by the insurance industry was brought up multiple times, with the contrast intended to convey the Board’s interest in placing emphasis on the qualitative or life-saving risk reduction. It was recognized that the Board will have a unique and important perspective to add to the discussion.

3.0 – STAFF RECOMMENDATION

The Board requested staff return to a future board meeting with a draft consultation guidance regarding the DLIS. Attached is a draft arranged around three themes: public safety, risk reduction and jurisdiction. Board staff recommends the Board adopt the draft Consultation Guidance and direct the Executive Officer to notify the Council of this action.

4.0 – CEQA ANALYSIS

This action does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and thus is not a “project” for purposes of the California Environmental Quality Act. (Public Res. Code § 21056; Guidelines § 15378(a)).

5.0 – List of Attachments

Attachment A - Draft Consultation Guidance regarding Delta Levee Investment Strategy

Prepared by: Ali Porbaha, Senior Engineer
Reviewed by: Leslie Gallagher, Acting Executive Officer

CVFPB Consultation Guidance Regarding the Delta Levee Investment Strategy (DLIS)

The Central Valley Flood Protection Board (Board) supports a statewide strategy for levee investment throughout the Central Valley. The Delta is an important part of this larger flood control system, and the Board recognizes the need to consider both State-owned and locally owned levees as components of the flood protection and water delivery system in the Delta. The Board supports the drafting of the DLIS and will participate in all aspects of its development. In order to support this effort, the Board has adopted the following guidance to be used by the Board and staff when providing comments and collaborating on strategy development.

The guidance is arranged around the themes of public safety, risk reduction and jurisdiction. Each is described in more detail below.

Public Safety. The Board will view the DLIS through the lens of its public safety mission to improve flood risk management throughout the Central Valley.

The co-equal goals of the water supply reliability and environmental enhancement along with the preservation of Delta as a place are important and laudable goals. But they are not the only governing principles in the Delta. The Delta is the exit point for flood waters carried by a vast and complex flood control system. The DLIS must take into account all of the other public agencies with interests in the Delta flood protection system and ensure the strategies implemented do not impede the implementation of other State priorities, projects or goals.

The Central Valley Flood Protection Plan (CVFPP), adopted in 2012, centers around the public policy need to improve flood risk management for the entire Central Valley, including the Delta. The CVFPP's systemwide investment approach for sustainable, integrated flood management in areas currently protected by facilities of the State Plan of Flood Control (SPFC) represents the State's priorities for the Central Valley. The CVFPP will be updated every five years, with each update providing support for subsequent policy, program, and project implementation. As the DLIS is developed, recognition of the systemwide approach of the CVFPP and its adopted public policies must be factored into the Delta-specific DLIS, because the Delta is a subset of the larger system, and investment strategies in the DLIS must complement and supplement those of the CVFPP. Competing strategies on the same system must be avoided.

Risk Reduction/State Liability. The Board will emphasize the need to protect State interests in infrastructure, critical public services and environmental enhancement in the DLIS

In addition to loss of life, levee failures and the associated inundation can cause destruction of property and infrastructure, interruption of water supply (a source of drinking water for about two out of every three Californians) as well as damage critical environmental, agricultural, commercial navigation and recreational interests in the region. There are extensive infrastructure and capital investments in the Delta, including wildlife habitat, public highways, rail lines, natural gas fields, gas and fuel pipelines, drinking water pipelines (e.g. Mokelumne Aqueduct) and two deepwater ports.

CVFPB Consultation Guidance Regarding the Delta Levee Investment Strategy (DLIS)

As the DLIS is developed, risk to the State resulting from failure of Delta levees due to floods, earthquakes, subsidence, dry weather failures, or climate change must be analyzed. Using even the most modest (and observed) estimates for future sea-level rise, many Delta levees would require improvement to address the higher daily and flood event water surface elevations. In addition to the strategy itself, the DLIS must take into account the State's significant investments already made in public infrastructure in the Delta. Levee failures would not only create direct damage, but also potentially change the configuration of the Delta, altering the ability to repair existing infrastructure and affect the mixing of fresh water with salt water.

As the DLIS is developed, it is imperative that strategies that reduce overall State liability are considered as preferred options. Specifically, the DLIS should focus on reduction of known flood risks, analyze what residual risks will remain after implementation, seek to reduce any residual risks, and ensure no new risks are created by implementation of the DLIS. Cost to the State must also be considered, and specific consideration must be given to the existing Delta Subventions Program, which has invested hundreds of millions in Delta levees over the years, with demonstrated success.

Jurisdiction. The DLIS should discuss the existing legal and contractual obligations of the State and utilize the Board's regulatory authority to manage the SPFC and Delta levees.

The Board has broad authority over the SPFC, as well as designated floodways and the regulated streams contained in Table 8.1 in Title 23, CCR, many of which are located in the Delta. The Board also holds title to real property through the Sacramento-San Joaquin Drainage District. The Board currently manages several programs, including:

- a. The Delta Subventions Program, including annual budget allocations, procedures and criteria;
- b. Issuing permits for encroachments or activities on or around the SPFC;
- c. Ordering removal of unpermitted or illegal encroachments on or around the SPFC;
- d. Serving as the non-federal sponsor for levee improvement projects requiring review by U.S. Army Corps of Engineers (USACE) pursuant to 33 USC 408 (Section 408 review);
- e. Issuing permits for projects on, under or near regulated streams (Table 8.1 in Title 23, CCR) and designated floodways.

Opportunities to incorporate these existing programs into the DLIS, utilizing existing authorities and resources, will be of primary importance to the Board.

CVFPB Consultation Guidance Regarding the Delta Levee Investment Strategy (DLIS)

Summary

This general guidance addresses broad themes of import to the Board and will be utilized by Board staff to guide discussions and comments as the DLIS is developed. As the need arises, specific drafts of the DLIS, policy questions not considered here, and other items of import that arise throughout the process will be brought back for Board consideration and/or action.

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