

An aerial photograph of a winding canal system in a rural, agricultural landscape. The canal is filled with dark blue water and is bordered by earthen levees. The surrounding land is a mix of green fields and brown, dry-looking areas. In the background, there are rolling hills and mountains under a clear blue sky.

**WATER RESOURCES ASSOCIATION
OF YOLO COUNTY
January 12, 2009**

**Delta Vision Strategic Plan
Sacramento Valley Water Supply Impacts
Paul M. Bartkiewicz
Bartkiewicz, Kronick & Shanahan**



Delta Vision Strategic Plan

Outline of Presentation:

- **Summary of Strategic Plan proposals impacting the Sacramento Valley**
- **Legal Issues**
- **Observations**
- **Related processes (BDCP, SWRCB Bay-Delta hearings, legislative proposals)**

Delta Vision Strategic Plan

What's the problem:

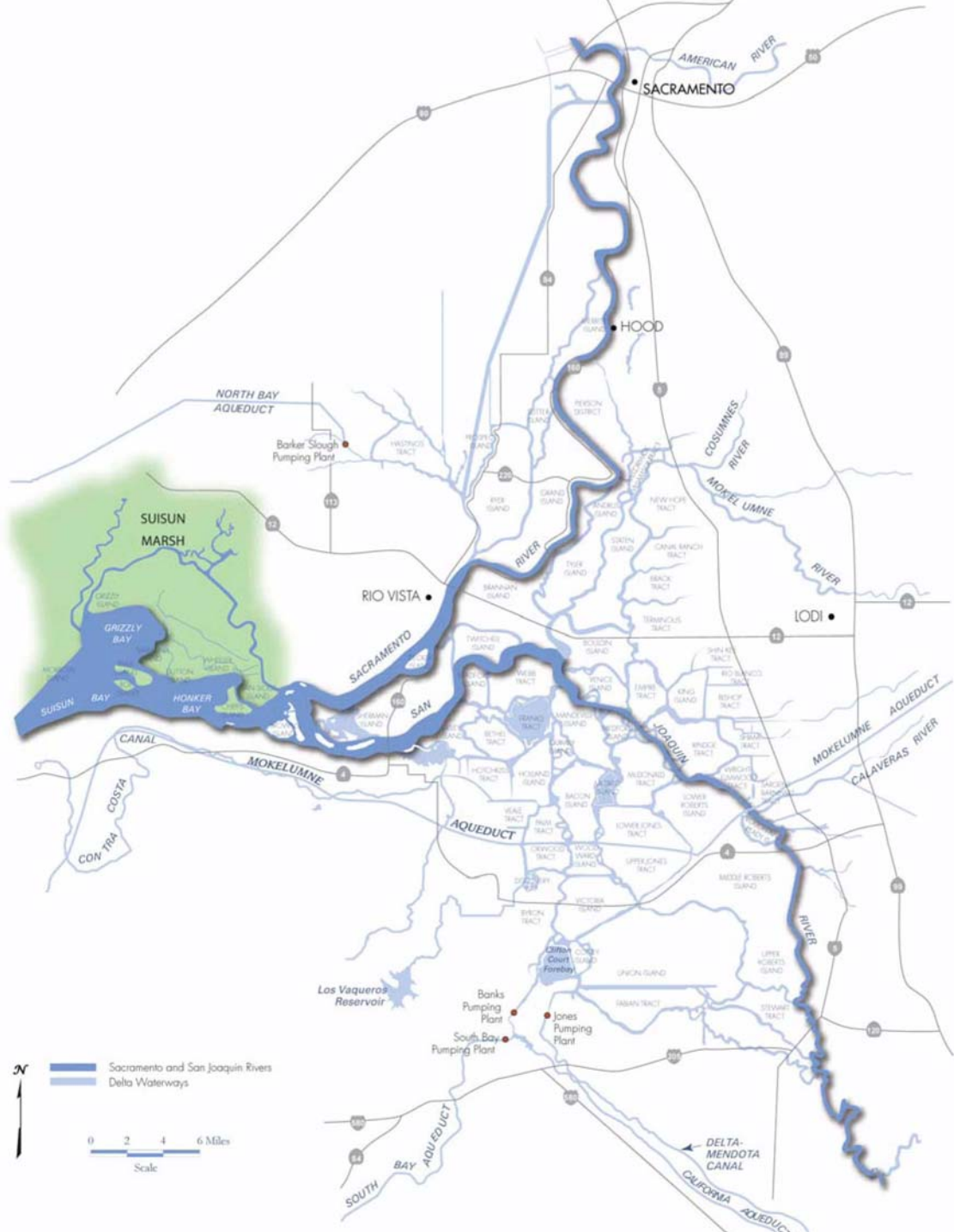
- **Ecosystem crash (numerous factors)**
- **Water-supply reliability crisis:**
 - **SWP/CVP export operations limited by impacts to ESA-protected species**
 - **exacerbated by drought**
 - **vulnerability of current levee conveyance system**
 - **climate change and sea level rise**



Delta Vision Strategic Plan Process

What's the solution process:

- 1994 Bay-Delta Accord launches CALFED process (\$ billions spent)**
- September 2006 Executive Order establishes Delta Vision Blue Ribbon Task Force**
- November 2007 Delta Vision Document**
- October 2008 Delta Vision Strategic Plan**
- December 31, 2008 Delta Vision Committee Implementation Report**



Delta Vision Principles November 2007

- **coequal goals: sustainable Delta ecosystem and a reliable water supply for California**
- **comprehensive approach, including ecosystem restoration, new Delta conveyance infrastructure and water storage**
- **independent governance body with authority and funding to achieve the coequal goals**

Delta Vision Principles November 2007

Principle 7: “A revitalized Delta ecosystem will require reduced diversions - or changes in patterns and timing of those diversions upstream, within the Delta, and exported from the Delta - at critical times”

- “sharing the pain” as a philosophy
- no science, no reference to causation or proportionality, no operational or water-supply impacts analysis
- launching a water war as a pathway to a solution?



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan:7 sets of goals, strategies and actions

Delta Vision principle 7 is carried forward in the Strategic Plan:

- **“Diversions from the Delta watershed - upstream, within and exported from the Delta - are an issue of statewide importance and directly impact restoration of the Delta and the reliability of the state’s water supply.” (page 32)**

Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Goal 4: Promote statewide water conservation, efficiency and sustainable use:

- enact legislation to reduce M&I per capita water use by 20 percent by the end of 2020 and by 40 percent, especially in non-coastal areas, by 2050 (strategy 4.2, page 32)
- request the SWRCB to determine that reasonable use of water should “evolve away from the generally accepted practice of diverting surface water for irrigated agriculture” (action 4.1.3, page 95)



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategy 3.4: Restore Delta flows:

- increase the frequency of floodplain inundation and establish new floodplains: allow the Yolo bypass to flood at least 60 days continuously between January and April every other year, except during critical years (page 71)
- recommends that DFG develop streamflow requirements for “high priority” rivers and streams in the Delta watershed by 2012

Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategy 3.4: Restore Delta flows (continued):

- recommends that the SWRCB adopt new requirements:
 - “to increase spring Delta outflow” by 2012
 - “to reintroduce fall outflow variability” by 2012
- notes that “additional scientific analyses will be required to support these recommendations” (page 85)

Summary of Strategic Plan Proposals Impacting the Sacramento Valley

September 2008 MBK Engineers analysis of flow proposals (Strategic Plan draft 3):

- Yolo Bypass inundation (revised Fremont Weir)
 - 189 TAF (below normal) – 260 TAF (dry)
- Spring Delta outflow
 - 120 TAF (below normal) - 104 TAF (dry) – 132 TAF (critical)
- Fall Delta outflow
 - 841 TAF (above normal) - 772 TAF (below normal)

Note: specific flow rates not included in Strategic Plan drafts 4 and 5, but flow proposals retained



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

**Lower Yolo Bypass Planning Forum and
Yolo Basin Foundation December 2008
comments on Strategic Plan:**

- **Concerns regarding modification of Fremont Weir and periodic planned inundation of Yolo Bypass:**
 - **elimination of agricultural production activities**
 - **increased vegetation affecting flood flows**
 - **transportation of methyl mercury**
 - **elimination of waterfowl habitat**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan implementation strategies:

- water to satisfy these proposed requirements could be implemented by “releasing more water from storage to improve flow conditions” or “reducing the amount of water diverted from the Delta ecosystem” (strategy 3.4, page 85)
- water necessary to “improve flow conditions” could be obtained through “regulatory re-allocation” of water supplies



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan implementation strategies (continued):

- **“create no expectation of public payment for any water required for ecosystem revitalization” (action 7.3.1, page 134)**
- **“make access to state funding contingent on a project contractor or a water right holder demonstrating full compliance with all aspects of California resources laws and policies, including complying with the CDEW Plan” (action 7.3.1, page 134)**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan implementation strategies (continued):

- **“Levy a per-acre-foot fee on water diversions within the Delta watershed, and a separate fee on any water conveyed through or around the Delta. These fees could be specific to activities recommended here or to be undertaken on a broader basis to provide core funding for ecosystem and water resource policies statewide.” (action 7.3.2, page 135)**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan implementation strategies (continued):

- **“Structure water rates to encourage conservation by greater use of variable rates, tiered rates and connection fees.”**
- **“Require full allocation of costs and risks, in proportion to benefits received.” (action 7.3.2, page 136)**

Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Strategic Plan implementation strategies (continued):

- recommends that by May 2009 the legislature adopt the Strategic Plan as the interim plan for the Delta (action 7.2.1, page 131)
- recommends the Strategic Plan's coequal goals be added to the California Constitution and statutes (action 1.1.1 , page vii)
- recommends incorporation of the coequal goals into the mandated duties and responsibilities of all state agencies with significant involvement in the Delta (action 1.1.2 , page vii)



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Delta governance proposal (goal 7):

establish a new governance structure with the authority, responsibility, accountability, science support and secure funding to achieve these goals:

- establish a California Delta Ecosystem and Water Council (to replace the Bay-Delta Authority and take over CALFED programs)**
- establish a Delta Conservancy**
- strengthen the Delta Protection Commission**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Yolo County's comments (December 2008) on the Delta governance proposal:

- Delta Vision proposals must be integrated with the Bay-Delta Conservation Plan and the Central Valley Plan of Flood Protection**
- governance must include representation from the 5 Delta Counties**
- the Delta plan must include economic viability, agriculture, recreation, ecosystem management and water and flood management**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Legal issues:

- Delta Vision's reliance on the July 9, 2008 memorandum from Virginia Cahill of the Attorney General's office, concluding that state agencies may reallocate water without compensation among water uses pursuant to various legal authorities, including:
 - Article 10, section 2 of the California Constitution (waste and unreasonable use)
 - the public trust doctrine
 - nuisance law



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Legal issues (continued):

- AG's memorandum concludes that the state may require water users to contribute water to Delta ecosystem improvements in proportion to their diversions rather than in proportion to their impacts to the Delta ecosystem



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Legal issues (continued):

- the AG's memorandum is contrary to current law:
- the state does not have authority to involuntarily reallocate water supplies without compensation to ecosystem enhancements unless the relevant impacts and the reallocations are proportional to these impacts



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Observations:

- **there is a lot of good work in the Delta Vision Strategic Plan:**
 - **e.g., promotion of the need for a comprehensive approach to the Delta, including ecosystem restoration, conveyance infrastructure and development of new surface and groundwater water supplies**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

- We should create a pathway to solutions:
 - any solution must account for the multiple causes of the Delta's decline and not simply focus on some of them
 - no redirected adverse impacts as part of Delta solution
 - utilize beneficiary pays principles (no water tax)
 - utilize sound science and analysis



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

Create a pathway to solutions (continued):

- no involuntary water reallocations unrelated to causation and proportionality**
- don't manipulate Article 10, section 2 of the California Constitution or the Public Trust Doctrine**
- respect the authority of the Delta Counties and other land use agencies**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

- **respect area-of-origin principles:**
 - **legislation funding or implementing a Delta conveyance solution should incorporate area-of-origin principles consistent with existing statutes, with potential augmentation to reflect the specific conveyance solution that is ultimately adopted**
 - **area-of-origin principles should be added to the California Constitution**



Summary of Strategic Plan Proposals Impacting the Sacramento Valley

- **region-specific water conservation - water conservation programs must reflect the climatic and water-management variations among regions of the state and should not adopt “one size fits all” principles**
- **launching a water war is not a pathway to a Delta solution!**



Delta Vision Committee Implementation Report (December 2008)

- accepts all of the recommended goals and strategies of the Strategic Plan, except for 2 governance strategies (strategies 7.1 and 7.4):
 - proposes establishing the Interim Delta Policy Group (instead of the Delta Ecosystem and Water Council) for 12 months to:
 - recommend a long-turn governance plan to implement the coequal goals, including fee authority as necessary
 - develop an agreement with the 5 Delta Counties and the Sacramento, Bay Area and San Joaquin Councils of Government to advise the Policy Group



Delta Vision Committee Implementation Report (December 2008)

- **develop a Delta plan that integrates long-term ecosystem restoration, flood protection, infrastructure and local issues and concerns**
- **evaluate how best to place the coequal goals into state legislation**
- **in 2011, begin to construct new Delta conveyance infrastructure**



Delta Vision Committee Implementation Report (December 2008)

- **enhance the Delta Protection Commission**
- **establish a Delta Conservancy to cover the “Delta watershed” (i.e., upstream from Delta)**
- **implement strategic financing for Delta sustainability, including immediate legislative action to provide state water supply and environmental resource protection fees**



Delta Vision Committee Implementation Report (December 2008)

- **enhance the authority of the SWRCB to require reporting of water use and to “clarify water rights” (presumably riparian and pre-1914 rights)**
- **give the SWRCB authority to issue interim orders designed to prevent irreparable harm**
- **restore 100,000 acres of habitat within the Delta**
- **implement the Strategic Plan flow proposals**
- **implement water conservation proposals**

Delta Vision Strategic Plan

Next steps:

- adoption by the Administration
- implementing legislation
- implementation by regulatory agencies
- expect M&I and ag water conservation requirements
- expect water fees and taxes
- expect BDCP process to move forward
- expect SWRCB Bay-Delta process to move forward
- expect water bond from legislature



Other Delta-Related Processes

Bay-Delta Conservation Plan

- goals and objectives designed to achieve:
 - long-term authorization under ESA and CESA for CVP and SWP Delta operations, even if these operations impact listed species
 - coverage for new Delta conveyance infrastructure

Bay-Delta Conservation Plan

Potential impacts:

- e.g., core element no. 1 includes modifying Fremont Weir and Yolo Bypass to provide higher frequency and duration of inundation
- see Lower Yolo Bypass Planning Forum December 2008 comments
- need to coordinate activities in Yolo Bypass with local wetlands and wildlife protection organizations
- upstream impacts?

SWRCB Bay-Delta Hearings

- **SWRCB previously adopted water quality control plans in 1970, 1991, 1995 and 2006**
- **July 2008 adoption of strategic workplan, including:**
 - **revise water quality and flow objectives by end of 2011**
 - **participate in preparation of BDCP EIR/EIS**
 - **prevent unauthorized diversions of water and violations of water right permits**
 - **limit authorized diversions when necessary to implement flow objectives**
 - **promote water conservation/water use efficiency**

An aerial photograph of a river valley, likely the Sacramento Valley, showing a winding river through a patchwork of agricultural fields. A small town is visible on the left bank of the river. The image is overlaid with a dark blue gradient.

Conclusion

Very challenging times facing California, Yolo County and the Sacramento Valley!

An aerial photograph of a winding canal system in a rural, agricultural landscape. The canal is a dark blue line that curves through green and brown fields. In the background, there are rolling hills and mountains under a clear blue sky. The text is overlaid on the top half of the image.

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