

The following is a summary of comments made, questions asked, and answers given at the Brentwood Landowner Meeting, hosted by the Department of Water Resources on November 6, 2008.

Q: Will the impact studies determine where to put a water delivery system, or are they for the whole Delta environment?

A: It's two things. A water delivery system is one part of it. The other part of it is the ecosystem restoration that is necessary for fish. The water delivery system is necessary because the fish agencies say, "You can't restore the ecosystem if you continue to pump out of the South Delta the way you're doing it. So you need to change how you're delivering the water and you need to do a whole lot of restoration work. And if you do all those things then the fish have a chance of coming back."

Q: Are you doing a study on all three conveyance options?

A: Yes, we are. We have to look at all of the conveyance alternatives, and we have to do in-depth studies.

Q: My understanding of the Delta Vision document, and those that I have read so far, is that they've already given you a proposed plan.

A: Delta Vision's purpose wasn't to tell us how to do conveyance; it was to make recommendations for the Delta. They didn't do an EIR, but they looked at the issues independently. For conveyance, they recommended that we do what's called dual conveyance. Delta Vision reasoned that through-Delta has benefits for water quality and for the levees in the Delta, while a canal, pipeline, or tunnel around has benefits for water reliability and quality. In the end, though, the decision has to be made after we've actually looked at all of the data and have done the studies. The studies will help us understand the costs, benefits, problems, challenges, and whether it's the right thing to do.

Q: I still get the feeling that this is nothing more than a cover for something that's already been decided.

A: I understand why you feel that way, particularly based on a strong, independent group like Delta Vision saying what they have.

Q: This stuff has been talked about and we know what's been going on. We know the Governor has said there will be a peripheral canal. The Governor has said that there will be a fast track project - which we're not covering here - which is Franks Tract. Those things are affecting landowners, and you're not getting the information out there, you're not talking straight to the landowners and you're not giving them the information.

A: I'd be glad to talk about Franks Tract if you're interested. That's a separate project.

Q: Delta Vision was clear that you cannot do just a conveyance and pull water, even from the north, without following through with the environmental pieces. And now you're doing an EIR/EIS on three separate conveyances.

A: The EIR/EIS is not just on conveyance. It's also on the ecosystem restoration efforts that have to be done at the same time. The EIR/EIS is both things.

Q: Some of the people sitting in this room have been involved in this process going on four years. DWR is now using this whole system to take land without having to go through due process. I would like you to come back in three or four years and stand here and talk with me, and tell me what DWR is going to do for remuneration for my property that I no longer have and can no longer control what's done on it, that I no longer have the ability to go and enjoy it because of the tides that are flowing through, because of the current is now going through so fast that it destroyed the tule berm in front of my property so I no longer can keep my boat there. You come and stand here in three years and then you tell me. That's what I'd like to see.

A: I won't be a state official at that point, but that's probably a good idea.

Q: Would the center canal be just like dredging the current riverbanks?

A: You've heard of the peripheral canal, and it's because of the elevations here that it likely would be an open channel canal just like the California Aqueduct. The through-Delta piece will try to use the natural waterways. The western alignment could be a combination of canals and large tunnels to try and get under this large part of the Delta here. There are also a couple of barrier sites that have been proposed. The idea behind the barrier sites is if we were going to do a through-Delta facility, you know, actually take water through-Delta, we'd want to concentrate on Middle River. And when we concentrate on taking water through Middle River, we'd actually want to separate out Old River and allow Old River to be more advantageous for habitat. But to do that we would need to separate Old and Middle Rivers by putting in some barriers.

At first, the barriers might be rock until we understand the tides a little bit better or we could actually put in what we call lift gates, gates that actually lift up in the water. The advantage of lift gates is that we could put them in and they could be out of the way during floods. So it would be a completely open channel, but it would also allow the ability to get barges through anytime, so if we ran into levee problems or anything else we could actually bring in the equipment and the rock on barges.

Q: So the barricades aren't too close off some levees that haven't dried out. It's just to control?

A: No, there'd still be water on both sides, and that's why you'd still be able to get

recreational traffic through.

Q: How are you going to compensate the landowner when your environmental study determines that some of the property needs to become habitat, and you prevent the landowner from exercising his right to divide his property, to build his house out on his property because you've identified it in such a way?

I'm going to ask a follow-up question. You've already identified certain barriers. You've identified certain seismic problems. You've identified the Franks Tract kind of stuff. You've got lines on a map that go through people's property, and then you say, 'Well, we haven't affected you as an owner.' Well, that's just not true. You have. And so my question is, at what point will the state say they are taking the property?

A: I'm going to talk about the biological and the endangered species. As far as the identification of the endangered species, the ongoing operations would continue. If you were to go in and subdivide your property and do additional entitlements through the local agencies, you would be responsible for conducting those environmental studies during that process. If you divide your property in four or less units, you would not be required to do any additional environmental review, and so the subdivision of the property would continue. If the plan proposes restoration on the property then, as I understand it, the project would acquire that property, and so you would be compensated at that point in time.

Q: Well, as soon as you put a freeway on a map that goes through somebody's house, even though that's just a proposal, you've devalued that property. And, in essence, that's a take. At what point does the Department have a take?

A: Typically, when there are alternatives during the environmental review process, it is still not a taking of the property, because right now there are three large corridors on the map. So, if you were to go in and process an entitlement right now to subdivide your property, that would be your prerogative to do that and there'd be no constraints to do so.

Q: It becomes very disheartening to deal with the Department. People are resistant to you because we get this answer, 'Well, you know, our little group is doing this.' And then we get the other group to come in with the Franks Tract people and they say, 'Well, we don't know what they're doing over there, so we can't really respond.' And then we get the seismic people who come in and say, you know, 'We've got to protect the levees because of an earthquake.' And they say, 'Well, we don't really know because --.'

So why is it that it takes somebody to stand up and get angry for somebody to ask a question, because you're going to have inverse condemnation lawsuits at your door, and you know it. The Farm Bureau has already sent out letters to

people saying, 'If you need an attorney we'll give you one.' And you're sitting there like, oh, who cares? And that's why people say you don't care.

A: You asked about condemnation. I will never promise on behalf of the State that that won't happen.

Q: I'm talking about DWR taking property and not paying for it. And I think that's really the problem, when you come and you ask, 'Can I come onto your property? And oh, by the way, if I happen to see something on your property that as a state official I have to report, I don't have a problem with that.' What is the upside to allowing you onto my property? The answer is nothing.

Regarding the possibility of improving the property so it's worth more, we are not allowed to do that because of everything that's up on the website that has to do with our property. So that's not an option for us. We've tried. We've gone numerous times to the county. We're told no every time. Of course, it's after we've spent quite a bit of money, but it ends up being the same answer, 'no.'

Q: I applaud you for coming out. But you sit here and you set up these meetings, you send out letters with misinformation, and look at the turnout. This is not the number of landowners that are impacted. The number of landowners that are impacted with this is huge. So those letters, they didn't get one. I didn't get one. But yet my property sits right there.

A: The letters were sent to people where we would like to conduct a study either for engineering or environmental purposes. So there are a lot of properties within these conveyance planning areas that were used as the basis to make those determinations. We used available studies and aerial photographs to try and figure out where those studies would be needed. So not everybody that's within one of these areas is in a place that we need to go and get on the ground to do a study for the EIR.

Q: You're trying to get a total picture of the Delta, but yet you've got branches that are at cross purposes sometimes, and the landowner, though, is the one central core. The landowner is the one piece that has all the information, because they're there. They're experiencing all these different pieces. So what you're doing doesn't help.

This is a panel of people who cannot answer our questions. The EIR/EIS, you're going to be writing it, but you're writing it for three conveyances, and once that EIR/EIS goes through, and I want everybody to know this, once that's completed and it hasn't been challenged, then DWR has the right to do any one of them.

A: We are doing this so we can choose an alternative that would best serve everything.

I mean, from the fish to the water supplies, and even for landowners. I realize that you won't believe me when I say this, but my orders to all of my engineers working on this is to minimize the amount of effects that we're having on people who own land out in the Delta, as well as the environment.

One of the reasons we are looking at such a wide area is because we've drawn some lines on a map, but we need to be able to move those to less sensitive areas if we have to.

Comment: The Governor has said there will be a conveyance. The Governor has said that there will be a fast track. And you guys have your jobs. You work for the government. I've done government contracts before, and I know how they work. So you're all doing your job, but in doing your job - you, Fish and Game, DWR, Resources Agency - in doing your job you are impacting the landowner, and the last time I checked, we pay your salary. And it's my money that's paying for this thing that's going to impact and reduce the value of my property.

Q: Although you're trying to raise your level of sensitivity, it's just not going to get to where we are. So what we would prefer to have rather than sensitivity, we'd rather have straight talk from you, and we're not getting straight talk. If you look at your documents it already says what your basic primary plan is. You should step up and just say, "This is our first choice. This is our second choice. This is our third choice." Then if we know we're on the third choice then we can kind of say, "Okay, we're okay." Then that's good. If we're on the first choice, well, now we've got other issues. But you won't do that.

What you're doing is you're holding everybody in place. You're controlling their property without buying it, without compensating, and then you insult us by saying, "We want to come onto your property and potentially find something that needs to be mitigated that right now you don't have to worry about because you own that piece. So the only upside we're going to give you is nothing." And you just won't talk and deal with that straight out.

A: You know, if the law would allow us to actually just draw lines on a map and choose a path, and actually pay for it, I think that we would. I am constrained by California and federal law, and I apologize. I mean, there's just no way around that. So we are constrained.

Q: Do you have Prop 84 or Prop 1E dollars in your pocket right now?

A: No. My staff is responsible for a portion of Prop 84, and at this point we've asked three times for legislature to appropriate it for us and we have not gotten it yet.

But the Contra Costa Water District has been pushing us, and although we don't have money to actually work on the program, we're charging the state water

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contractors, so we can work on that particular program, so we can get that money out to people like Contra Costa Water District, City of Stockton, and Solano County Water Agency.

Q: Our land is more toward the south side. It's a stone's throw from the California Aqueduct near Clifton Court Forebay. How are these going to connect in with existing California Aqueducts? Is it going to hook in separately? Is that going to be shutdown eventually?

A: I think the intent, although they haven't done the designs at all or even thought about the designs, is to continue to have the water go into Clifton Court Forebay with the same pumping system that currently exists.

Q: I have some property on Bradford Island and Fisherman's Cut used to be a beautiful little slough, and it's full of things that people have abandoned there, and gotten away with. Is your study going to address any of that?

A: This study is not directed at that problem. I think there is an effort to increase the funding for programs within the Boating and Waterways Department, so that they can do more to improve those situations, because we have a lot of that problem in the Delta.