

Collaborative Governance of Water in California: What Role for the Legislature?

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Olympic Valley, CA

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- 40% of state's land area
- 47% of state's water flow

- 25 million people
- 3 million acres agriculture

Delta Watersheds Overview
1:100,000-scale Topographic Map Base

- Aqueducts
- Project River Systems
- Central Valley Watersheds
- Legal Delta and Suisun Marsh
- County Boundary

0 20 40 80 MILES
0 70 140 KILOMETERS

UNIVERSAL TRANSVERSE MERCATOR COORDINATE SYSTEM ZONE 10 NORTH AMERICAN DATUM 1983
Prepared by CTS Corporation for Delta Vision Data Release Task Force, August 2007

Major Issues in Delta Water Policy

- Growing population and economy
- Relatively fixed water supply
- Endangered salmonids, sturgeon, delta smelt
- Impending ecological collapse in the Bay-Delta
- Prospect of water supply being significantly curtailed by endangered species laws
- Prospect of catastrophic loss of Delta water infrastructure if levees are breached by flooding, earthquakes, or sea level rise

Major Paradigm Conflicts

1. Water Supply versus Watershed Management
2. Technocratic versus Collaborative Management

Water Supply vs. Watershed Management

Water Supply

- Provide supply by building storage and conveyance

Watershed Management

- Protect supply by protecting quality
- Protect quality through land use
- Integrate uses “from headwaters to ocean”
- Aim for highest beneficial use (through accounting, timing, trading, “conjunctive use”)
- Conserve supply by managing demand

Technocratic vs. Collaborative

Technocratic Management

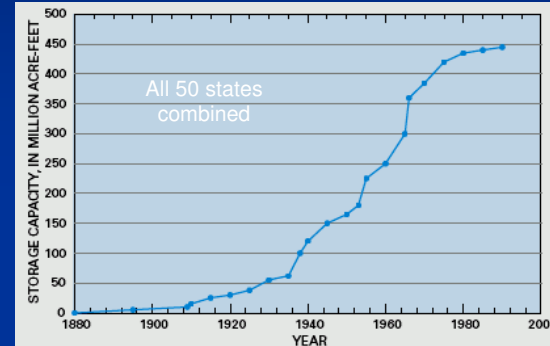
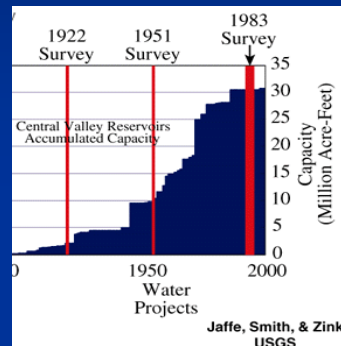
- Agency and expert driven

Collaborative Management

- Meaningful involvement of all stakeholders at each stage of the policy process
 - Inclusive
 - Accessible
 - Representative
 - Voluntary
 - Consensus-seeking
 - Deliberative
 - Transparent
 - Impartial
 - Empowered
 - Lawful

Major Epochs in California Water Policy

1940-1980 Building dams and aqueducts



1960-1985 Building bureaucracies, laws, regulations, and case law

1985 → Building institutions of collaborative watershed management

Collaborative Governance Institutions

Statewide

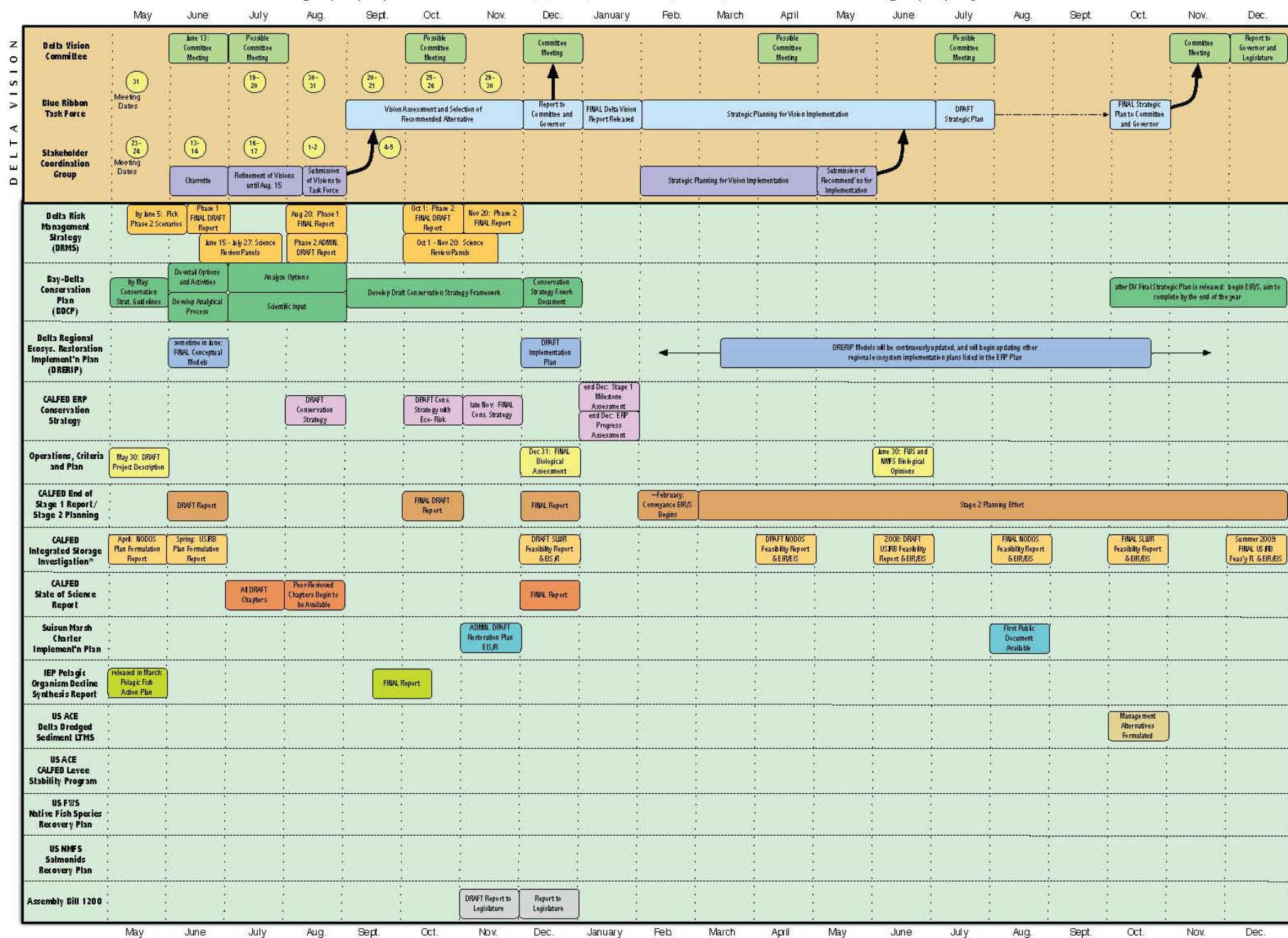
- California Water Plan Update 2009
- FloodSAFE & the California Flood Plan
- Integrated Regional Water Management Plans (33+)
- Watershed and floodplain partnerships (approx. 200)

Bay-Delta

- Delta Vision
- Bay Delta Conservation Plan (BDCP)
- Delta Regional Ecosystem Restoration Implement'n Plan
- Suisun Marsh Charter Group
- South Bay Salt Ponds Restoration
- Delta Risk Management Strategy (DRMS)
- California Bay Delta Authority (CALFED)

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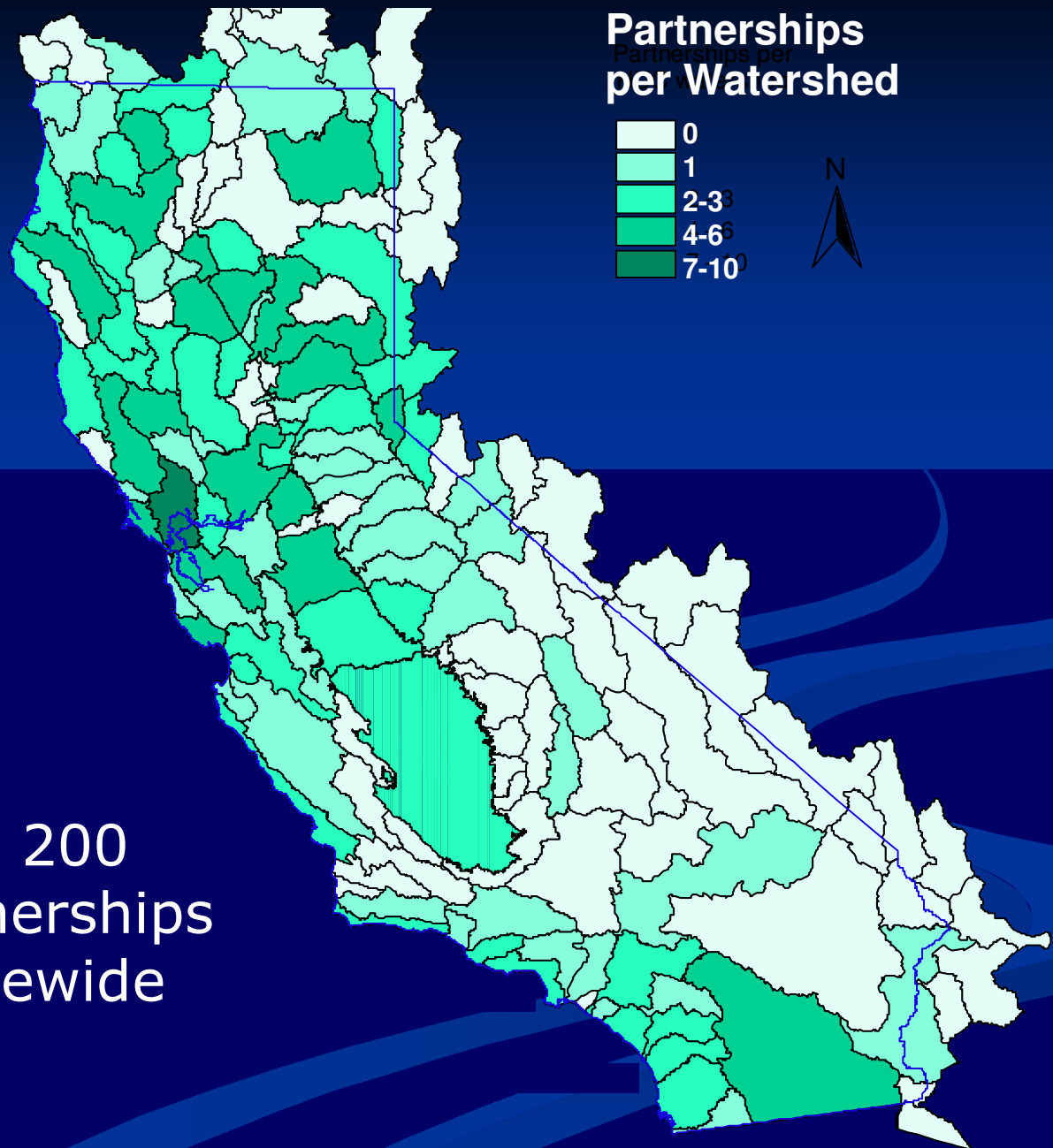


California Water Plan Update 2005

- By law, updated every five years
- Lead: Department of Water Resources
- Five-volume strategic plan
- 65-member Advisory Committee
- 350-member Extended Review Forum
- 200 meetings and workshops
- 23,000 face-to-face person hours
- Consensus-seeking with professional mediation, Center for Collaborative Policy, Sacramento State
- 2009 Update is underway

Integrated Regional Water Management (IRWM)

- Grants from DWR and SWRCB to local districts for planning and implementation
- 33 and counting
- Prop 50, 2002, \$500 million
- Prop 84, 2006, \$1 billion
- Prop 1E, 2006, \$300 million
- Stakeholder involvement varies widely
- Some with professional mediation by Center for Collaborative Policy, Sacramento State



About 150 to 200
watershed partnerships
are active statewide

Delta Vision

- Vision due January 1, 2008
- Strategic plan due December 31, 2008
- Created by Governor's executive order, Sept 2006
- Blue Ribbon Task Force
 - 8 members appointed by Governor
- Stakeholder Coordination Group
 - 43 members appointed by Resources Agency
 - Consensus-seeking with professional mediation, Center for Collaborative Policy, Sacramento State

Bay Delta Conservation Plan

- 22-entity steering committee
- Formed through ad hoc “Planning Agreement,” October 2006
- Lead agency: California Resources Agency
- Goal: Conservation plan and “incidental take permits” for water agencies under the federal and state endangered species acts
- Consensus-seeking with professional mediation

Advantages of Collaborative Policymaking

1. Building social capital
 - Trust across factions
 - Mutual understanding and empathy
2. Incorporating science into policy
 - Generating new knowledge
 - Identifying scientific consensus
 - Exposing shared ignorance
3. Policy innovation
4. Policy consensus
5. Policy implementation

Roles for the Legislature

1. Supporting and guiding collaborative watershed management
2. Choosing winners and losers



ENVISIONING FUTURES FOR THE SACRAMENTO-SAN JOAQUIN DELTA

JAY LUND | ELLEN HANAK | WILLIAM FLEENOR
RICHARD HOWITT | JEFFREY MOUNT | PETER MOYLE

Public Policy Institute of California

2007 PPIC Report

~

"It now appears that the CALFED premise that 'everyone can get better together' may be unrealistic..."

"Californians will need to recognize that the Delta cannot be all things to all people. Tradeoffs are inevitable."

What Roles for the Legislature?



1. Help convene, fund, and guide *genuine* collaborative governance

Examples:

Convening: Delta Vision, SB 1574*

Funding: CALFED watershed coordinator grants.
New state watershed program in DOC.
Proposed tax on bottled water (AB917*).

Guidance: IRWM programs vary widely in quality
of stakeholder involvement (AB1489*)

* Listed as illustrations of recent proposed or enacted bills. Not an endorsement by the speaker, CCP, or CSUS.

What Roles for the Legislature?



2. Respect and empower ongoing collaboratives

- Consider closing off alternate venues
- Allow existing collaboratives to run their course
- Be transparent about sharing governance

What Roles for the Legislature?



3. Legislate *integrated* policymaking

Connect water policy with:

- Floods
- Earthquakes
- Homeland security
- Energy
- Immigration
- Food security
- Nutrition
- Public health
- Environment
- Economics

Example: Consider requiring IRWMs to plan for climate change

- Climate Change Report - CALFED Independent Science Board

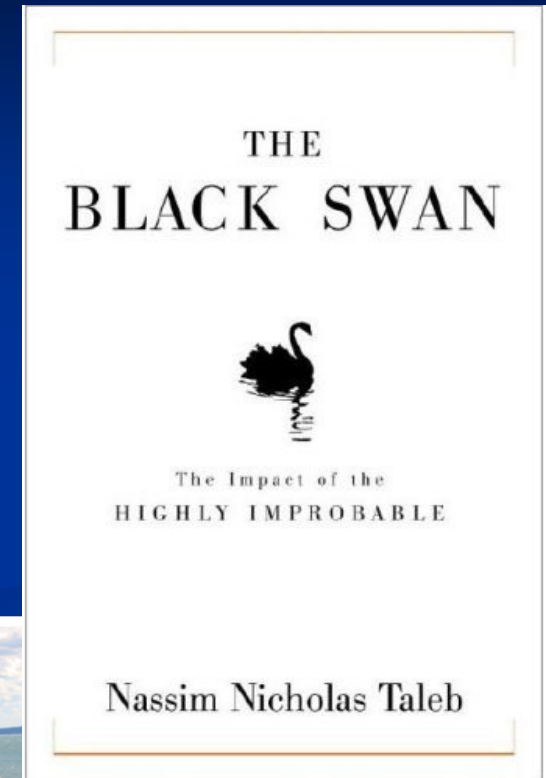
"A mid-range rise in sea level this century is likely to be at least 70-100 cm."



*Mike Healy, Sept. 9, 2007
CALFED Lead Scientist*

“Understanding how to act under conditions of incomplete information is the highest and most urgent human pursuit.”

- *Nassim Taleb, 2007*

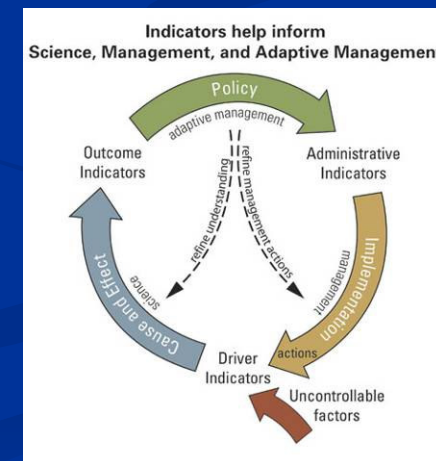
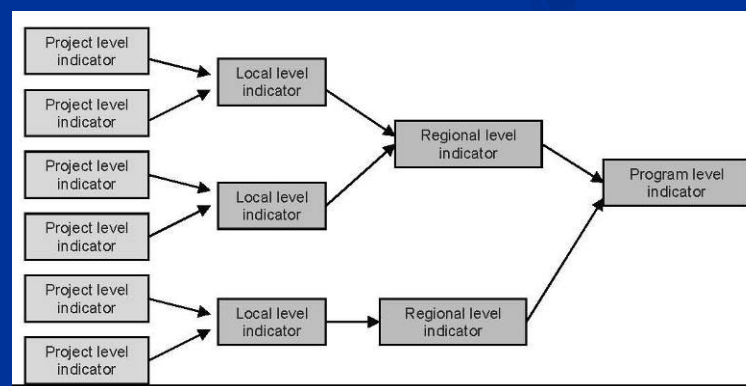
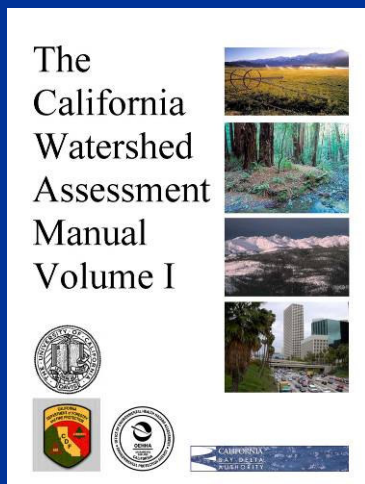


What Roles for the Legislature?



4. Legislate accountability & adaptation

- Require (and fund) monitoring and assessment



What Roles for the Legislature?



5. Beware of unintended consequences of “open government” and “public participation” laws

- Brown Act
- Bagley-Keene Act
- Prop 59 (2004)
“Sunshine Amendment”

Too Much Sun?

Emerging Challenges Presented By California &
Federal Open Meeting Legislation to Public
Policy Consensus-Building Processes

Lauri Diana Boxer-Macomber

Center for Collaborative Policy

September 2003

What Roles for the Legislature?



6. Tackle root causes of California's water problems:

- Water is not being put to its highest and most beneficial uses
- Water rights

First step: Convene “joint-fact-finding forums” or “policy dialogues” to explore strengths and limitations of California’s water rights regime