

Agenda Item: 9-7

Meeting Dates: February 9 and 10, 2005

JOINT MEETING WITH BAY-DELTA PUBLIC ADVISORY COMMITTEE

ECOSYSTEM RESTORATION SUBCOMMITTEE REPORT

Prospect Island Update

Summary: The Ecosystem Restoration Subcommittee recently heard a briefing informing the Subcommittee that the U.S. Bureau of Reclamation (USBR) has initiated a process to dispose of Prospect Island. The purpose of this Subcommittee report is to highlight this process in hopes that the Bay-Delta Public Advisory Committee (BDPAC) can engage the California Bay-Delta Authority in discussing this potential divestiture of Prospect Island. The Subcommittee recommends to BDPAC that it request the Authority to monitor and facilitate constructive efforts to ensure that the island's future use is consistent with and supports the Ecosystem Restoration Program's vision for the region.

Recommended Action: This is an information item only. No action will be taken.

Background

Prospect Island, an island in the northern delta immediately east of the Sacramento Deep Water Ship Channel and the southern end of the Yolo Bypass, was purchased by USBR in 1994 as part of a multi-agency effort to restore wetland and riparian habitat. This island and two others purchased with public funds were to be part of a proposed North Delta National Wildlife Refuge to be managed by the U.S. Fish and Wildlife Service (USFWS), but efforts to establish a refuge have not moved ahead. Without near-term implementation of a restoration project that had been planned by the U.S. Army Corps of Engineers (USACE) and Department of Water Resources (DWR), or assumption of the long-term land management responsibility (including levee and flood risk liability) by another agency, USBR has initiated a process to transfer or sell the island to another entity. The Ecosystem Restoration Subcommittee asked agency staff to compile the following information to support the subcommittee's report to BDPAC.

Prospect Island and the two other nearby islands purchased with public funds (Liberty Island and Little Holland Tract) are all within the Ecosystem Restoration Program's North Delta Ecological Management Unit, considered a high priority area for meeting Ecosystem Restoration Program (ERP) and Multi-Species Conservation Strategy objectives. The ERP Plan's vision for the North Delta includes restoration of marsh, slough and shallow water habitat complexes on these three specific parcels. In this

vision, these complexes would drain the wetland, slough and seasonal floodplain habitat to be restored along the Yolo Bypass, and would provide rearing and migrating habitat for juvenile and adult salmon, and rearing and spawning habitat for other native fishes, including Delta smelt and splittail. Passive restoration of tidal emergent wetland, tidal perennial aquatic and riparian habitat on these islands since the late 1990s contributed to the ERP's recent assessment of progress toward milestones.

In 1988 USACE and National Marine Fisheries Service (NMFS) explored the idea of reducing the Sacramento Deep Water Ship Channel levee maintenance costs while restoring wetlands and fisheries in the area. A pilot study showed that USACE could greatly reduce or eliminate maintenance costs by acquiring the private land at Prospect Island and breaching the ship channel levee. The resulting restoration of natural flows would re-create freshwater tidal wetland, riparian, and shaded riverine aquatic habitat. In 1994 USACE initiated a study of restoration alternatives in cooperation with DWR, the non-Federal sponsor required under Section 1135 of the Water Resources Development Act of 1986. At about the same time, the private landowner approached the Trust for Public Land (TPL) with interest to sell the private property. In December 1994, at the direction of Congress, USBR purchased the remaining private land on the island (approximately 1,240 acres of the more than 1,600 acre island) for approximately \$2.8 million of Central Valley Project Restoration Funds.

As part of their support for the project, USFWS formally indicated in 1995 that it would accept management of Prospect Island after construction of the restoration project and pending establishment of a National Wildlife Refuge boundary that included the island. Planning for a North Delta National Wildlife Refuge was initiated, and a draft Environmental Assessment was released in 1999. The refuge concept met with local opposition, and a refuge boundary has not been established. Consequently, USFWS is not prepared to accept management of Prospect Island or any of the nearby publicly acquired lands as was originally envisioned.

Meanwhile, after a lengthy planning process, USACE and DWR completed their environmental documents and selected a final restoration plan in 2001. Several CALFED agencies cooperated with USACE and DWR in their study to develop a restoration project at Prospect Island, including USBR, NMFS, USFWS, and California Department of Fish and Game (DFG). By summer 2002, USACE was ready to award a construction contract. Before USACE could make the award, it needed an assurance from DWR that the State could meet its cost-share obligation under USACE's Section 1135 program. DWR had secured a commitment for the non-Federal cost-share in the form of Ecosystem Restoration Program-related California Urban Water Agency funds and Delta Levee Program AB 360 funds based on the original cost estimates in 1996. By 2002, the original construction bid, plus additional construction costs after a year of leaving the USACE' construction contract award open, had increased the project construction costs by an additional \$1.9 million. DWR was unable to secure the additional funds through the ERP, primarily due to concerns about the lack of a long-term property owner and manager. Without financial assurance of the additional non-Federal cost-share from DWR, USACE could not award a contract to construct the project.

While DWR worked to secure additional funds, USBR advised other involved CALFED agencies that USBR would need to initiate disposal of Prospect Island if a project and long-term property owner and manager could not be identified. By that point, more than \$7 million dollars had been spent by USBR including unanticipated costs of \$3.2 million for levee repairs and island dewatering. The most recent estimate (2002) of the total project costs, including funds spent to date and the additional funds required to complete the restoration project, was approximately \$16 million. In addition to these costs, both the Federal and State governments have incurred costs defending lawsuits related to the project. A lawsuit against USBR concerning flooding of the island was found in favor of the Federal government. A second lawsuit against DWR and USACE challenging the adequacy of the NEPA/CEQA documents for the project was dismissed without prejudice, recognizing that the project may not proceed. Although the restoration project has not been constructed, the property now has some habitat value due to the natural colonization by plants and animals.

In June 2003, USBR notified other Department of the Interior agencies of its intent to dispose of the property. USBR received no responses during the 30-day response period, although Authority staff has informally encouraged USBR to delay moving ahead with the disposal process while possible options regarding long-term ownership and management are explored. USBR's next step is to notify Congress of the intent to dispose of the property and then to ask for the Federal General Services Administration (GSA) to act as its agent in the disposal process. USBR has prepared a packet for GSA and intends to notify Congress and initiate the GSA process soon. There are five steps to the GSA process: (1) USBR reports property to GSA for disposal; (2) GSA offers to transfer property to other Federal agencies; (3) If not transferred to another Federal agency, GSA offers property for certain other public uses at up to a 100 percent discount; (4) GSA offers property to eligible public entities for other public uses at fair market value; and (5) GSA offers the property for sale to public and private parties via auction or sealed bid, fair market value required. Additional information on the GSA process can be found at <http://propertydisposal.gsa.gov>. The GSA process is also explained in an online slide presentation that can be viewed at <http://rc.gsa.gov/ResourceCenter/nonPRmain.asp>.

There are other parcels of land acquired with public funds that were expected to be part of the proposed North Delta National Wildlife Refuge. The largest of these are Little Holland Tract, a 1,630 acre parcel held by USACE, and Liberty Island, a 5,200 acre island of which 4,760 acres are held by TPL. Both USACE and TPL have expressed an interest in identifying long-term owners and managers of these parcels. However, USACE has not received any Federal direction or funding to pursue divestiture of Little Holland Tract. TPL is very interested in conveying ownership of Liberty Island and is currently involved in discussions with DFG toward that end.

Contact

Gary Bobker
Chair, Ecosystem Restoration Subcommittee

Phone: (415) 506-0150