



June 20, 2012

Attention: Imported Water Committee

Bay-Delta update. (Information)

Background

There has been a great deal of activity recently on the Bay-Delta and there are a number of decision points approaching.

Discussion

Delta Stewardship Council

The Delta Stewardship Council released a Sixth Staff Draft Delta Plan in May. The Water Authority had previously commented in February on the Draft EIR that was based on the Fifth Staff Draft. The Sixth Staff Draft is greatly improved over the Fifth Staff Draft, but still does not address all of the Water Authority's comments.

A major concern with the EIR was that the Fifth Staff Draft relied almost entirely on flows of water through the Delta to solve problems with fish populations. The flow requirements that were contemplated in the Fifth Draft were so restrictive that it would be impossible to export water in some years and upstream water users with senior water rights would have to give up water to sustain flows. The Sixth Draft recognizes that flows alone cannot solve the species' problems and puts a greater emphasis on other stressors such as water quality, invasive species, and predators.

Another major concern with the Fifth Staff Draft was that the DSC proposed to regulate local agencies' efforts to develop local supplies and reduce their reliance on the Delta. The Fifth Staff Draft proposed to regulate water management in a local area or region if a water user intended to take a "covered action" that affects the Delta, such as a water transfer or contract amendment. The DSC would also be able to bar water users from taking "covered actions" if they have not met the demand reduction requirements of SBx7-7. The Sixth Staff Draft is somewhat improved, but still gives the DSC substantial regulatory powers over local agencies outside the Delta.

The DSC will review the Sixth Staff Draft at its meetings on June 28 and 29. The Council will prepare and ultimately adopt its own final draft Delta Plan in July or later. Council staff is also rewriting the Draft EIR, which will be completed later this summer and released again for public comment. The DSC intends to adopt a final EIR in the fall.

Bay-Delta Conservation Plan

The Resources Agency released an administrative draft of the BDCP in late February, including an effects analysis and conservation plan. The administrative draft identifies and analyzes the effects of a project that would include a double-bore, 15,000 cubic feet per second tunnel under the Delta, with five 3,000 cfs intakes on the Sacramento River.

The administrative draft contains incomplete versions of the effects analysis and conservation plan. These are the heart of the Bay-Delta Conservation Plan and are the basis on which the state and federal governments will issue permits under the state and federal Endangered Species Acts.

The effects analysis and conservation plan describe efforts to offset the environmental impacts of the Delta conveyance project by expanding habitat in the Yolo bypass area and the Cache Slough. These are excellent breeding grounds for Delta smelt, longfin smelt, and provide protection for juvenile salmon as they return to the sea. The administrative draft states that the project will result in some loss of fish populations in early years, but will eventually serve to recover the listed species.

Both the California Department of Fish and Game and the federal fisheries agencies (National Marine Fisheries Service and Fish and Wildlife Department) have issued letters of concern about the effects analysis. The federal fisheries agencies have said they cannot issue ESA permits based on the conveyance project and the effects analysis as set forth in the administrative draft. Natural Resources Secretary John Laird sent a letter in April to Interior Secretary Ken Salazar stating that the state would not be able to meet the deadlines it committed to earlier this year for completion of the BDCP. Secretary Laird and Secretary Salazar had agreed in January that the BDCP would be substantially complete and the preferred alternative selected by the end of June. Secretary Laird's letter put off completion until September. A formal joint announcement on how the state and federal government plans on proceeding with the BDCP from Secretary Laird and Secretary Salazar is expected to be made in July.

The federal government's concerns caused the Kern County Water Agency to send a letter to the Natural Resources Agency threatening to leave the BDCP process. The KCWA letter urged the state to continue on with the BDCP without federal involvement.

In April and May, the federal fisheries agencies convened two workshops with the state and federal water contractors in San Francisco. The federal agencies stated that they could not permit the largest project that was analyzed in the BDCP. That project would have exported an average of 5.9 million acre feet per year. The federal agencies said they could only permit a project that would export between 4.5 maf and 5.5 maf annually. Under the current pumping restrictions, the State Water Project and Central Valley Project export an average of 4.9 maf.

The state and federal contractors will have to assess whether a project that does not yield substantially more water each year is worth the expense. The KCWA has agreed to continue its work on the BDCP for 60 days, but said further involvement will depend on the actions of the federal fish agencies.

Financing the BDCP

In May, the Natural Resources Agency released the administrative draft of Chapter 8 of the BDCP. This is the chapter that relates to financing the BDCP. The chapter includes estimates of the costs of completing the BDCP and the conveyance project. Chapter 8 contains an estimate of the cost of the conveyance project at approximately \$13 billion over 10 years. It also assesses the

state, federal, and local funds that will be available to pay for completion of the BDCP over the next 50 years.

The Natural Resources Agency contacted each of the state and federal water contractors and has received assurances that they are willing to finance the conveyance project. The Agency has not investigated the financial ability of the contractors to finance the project, even though the Water Authority has expressed concerns about the long-term ability of the Metropolitan Water District to carry its share, due to declining sales, rising rates, and the lack of commitments from its member agencies to pay its fixed costs.

The Agency has also commissioned a report by economist David Sunding to identify all beneficiaries who should help to pay for the project. Dr. Sunding will examine where the water goes and what benefits are derived from improvements in reliability and quality. The report was due in May, but it is late and is not expected to be completed until later this summer.

Since the release of the draft Chapter 8, another issue has arisen that concerns Water Authority staff. In addition to the concerns cited above, there is a concern that bond underwriters will insist that each of the water contractors agree to “step up” if other contractors drop out of the project. In other words, if the project costs \$13 billion and one or more of the contractors drop out, MWD and the other remaining contractors would be contractually obligated to pick up the shares of the departing contractors. This could result in a very large increase in costs to MWD and to the Water Authority, as its largest customer.

Water Authority staff is preparing comments on Chapter 8 to be delivered to the Natural Resources Agency.

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