



June 19, 2013

Attention: Imported Water Committee

Bay-Delta Quarterly Update. (Information)

Background

The Sacramento-San Joaquin Bay-Delta (Delta) is an important water supply source for Southern California. Typically, more than 20 percent of the Water Authority's annual water supply comes from the Delta. As such, the Water Authority has been, and continues to be, a strong advocate for a sustainable Delta solution – one that is “right-sized” and supported by a broad range of stakeholders in order to reduce challenges to implementation. This quarterly update is intended to inform the board on events related to the Delta.

Discussion

Bay-Delta Conservation Plan

The California Natural Resources Agency (Resources Agency) released the Administrative Draft Bay Delta Conservation Plan (BDCP) to the public in three parts to provide an advance copy of the BDCP before it is formally available for public comment on October 1, 2013. In addition, the Consultant Administrative Draft Environmental Impact Report and Environmental Impact Statement (EIR/EIS) was also released. The BDCP and the EIR/EIS are intended to be the basis for issuance of endangered species incidental take permits for facility and operational changes to the State Water Project (SWP).

On March 14, the Resources Agency released the first four of 12 draft chapters of the BDCP, and held a public meeting on March 20 to review and discuss the chapters. The chapters detailed the BDCP's conservation strategy, which includes more than 200 biological goals and objectives, and the conservation measures to be implemented to achieve the biological objectives. This set of documents also described the preferred alternative for construction of a new water delivery system via a tunnel from the new north Delta intake points to the existing export facilities of the SWP and Central Valley Project.

On March 27, the Resources Agency released the second set of BDCP draft chapters. Chapters 5-7 detailed the ecological effects resulting from the conservation measures and the proposed governance structure of the BDCP. A public meeting was held on April 4, where the Resources Agency and Dr. Gerald Meral, Deputy Resources Secretary of the Resources Agency provided a progress update on the draft chapters and gave a formal presentation on the BDCP process. Concurrent with the public meeting, a workshop forum was held to provide project staff an opportunity to respond to specific questions made by the public.

On May 10, the Administrative Draft EIR/EIS was made available for public review. This followed the May 8 announcement from the State of California and the Obama administrations committing to release the draft BDCP and accompanying environmental documents on October 1, 2013, which will mark the start of the formal public review and comment period. On May 29,

the remaining chapters of the Administrative Draft BDCP were released to the public. The last chapters addressed the implementation costs and funding sources, alternative ways to avoid harm to endangered species, and integration of independent science into the BDCP's preparation. A public meeting to review these chapters is scheduled for July 17, 2013.

On May 23, Dr. Meral addressed the Water Authority board on elements of the BDCP. He also described a myriad of additional processes before the BDCP could be implemented, including the following:

- BDCP's Record of Decision and obtaining permits from state and federal fish agencies (expected to be completed in 2014);
- Approval of the BDCP as part of the Delta Stewardship Council's (DSC) Delta Plan (which includes its own set of hearings);
- Approval from the State Water Resources Control Board on the new points of diversion (another set of hearings);
- Issuance of 404 and 408 permits from the Army Corp of Engineers. The 404 permit allows the discharge of dredged or fill material into waters of the United States and the 408 permit grants permission to alter an existing flood control structure.

Dr. Meral indicated that the planned construction phase will begin in 2015 (latest in 2016) and would likely take 10 years to complete.

Delta Stewardship Council

On May 16, the DSC adopted its final Delta Plan, certified the final Programmatic Environmental Impact Report (PEIR), and adopted regulations that will implement the policies of the Delta Plan. The Delta Plan is to lay the foundation for projects and programs that will meet the state's co-equal goals of improving statewide water supply reliability while providing a healthy ecosystem; it is anticipated that the Delta Plan will include the BDCP, once the BDCP is fully permitted.

Shortly after the adoption of the Delta Plan and corresponding environmental documents, San Luis Delta Mendota Water Authority and Westlands Water District filed a lawsuit in the Sacramento County Superior Court against the DSC for adopting the Delta Plan and certifying the PEIR. The complaint stated that the Delta Plan would hinder achieving the state's coequal goals formulated in the Delta Reform Act and failed to prepare and certify a legally adequate PEIR for the Delta Plan. More particularly, the plaintiffs believe that the Delta Plan exceeds the statutory authority granted to the DSC by the passage of the Delta Reform Act. The Delta Reform Act established four noteworthy roles for the DSC: 1) coordinating numerous state agencies around the Delta to ensure consistency; 2) managing the development of a new Delta Science Plan; 3) prioritizing levee investments in the Delta; and 4) providing a forum for appeals to assess consistency with the Delta Plan. The plaintiffs believe instead, the Delta Plan undermines the coequal goals of water supply reliability by "limiting" the water available for export.

On June 5, the State Water Contractors (SWC) board of directors unanimously voted to authorize

its General Manager to file litigation challenging the adequacy of CEQA compliance of the Delta Plan on behalf of the SWC and individual SWP agencies that ask to be included. More recently, on June 11, the Metropolitan Water District board approved entering into litigation against the DSC for the same motives as the SWC.

The DSC also included in the Delta Plan regulations that could impact oversight and management of the SWP and submitted them to the Office of Administrative Law (OAL). However, the OAL has not completed its review of the regulations. It is anticipated that more lawsuits may be filed after the OAL adopts the regulations.

Next Steps

Water Authority staff will continue to monitor Bay Delta issues and report back to the board. In the upcoming months, staff anticipates providing a series of reports assessing the BDCP and DSC's Delta Plan. Staff expects to provide comments on the BDCP with the board's guidance during the formal public comment and review period, which is planned to begin this October.

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