

January 18, 2017

Attention: Imported Water Committee

Update on California WaterFix (Presentation).

Purpose

The purpose of this memo is to provide updates on California WaterFix including a timeline for review of the newly released final environmental documents.

Background

The Sacramento-San Joaquin Bay-Delta (Bay-Delta) is a critically important ecosystem and serves as the hub of California's State Water Project and the federal Central Valley Project. Due to a variety of factors, the Bay-Delta is in a crisis, and water deliveries have become less reliable. In 2009, the State Legislature placed into law a policy that requires those regions that depend on Bay-Delta supplies to reduce reliance on the Delta and increase self-reliance for water through conservation and development of local supplies to meet future water supply needs.¹ The Water Authority and the Metropolitan Water District of Southern California (MWD) supported this legislation. Over the past 25 years, the Water Authority and its member agencies have significantly reduced San Diego's reliance on Bay-Delta supplies by diversifying the region's supplies and shifting the reliance on water purchased from MWD – San Diego's sole source of Bay-Delta supplies. Over the past decade, Bay-Delta water averaged about 24 percent of the Water Authority's supply; in fiscal year 2016, only 4 percent originated in the Bay-Delta.² By 2040, only 7 percent of the San Diego region's supplies—at most—is projected to come from the Bay-Delta. The Water Authority has long been a proponent of a fix to the Bay-Delta that is environmentally sustainable, cost effective and responsible to its ratepayers.

Ten years ago, the Bay Delta Conservation Plan (BDCP) was conceived to achieve the co-equal goals of water supply reliability and ecosystem restoration. In December 2013, the Department of Water Resources (DWR) released the Draft Environmental Impact Report/Environmental Impact Statement (EIR/EIS). DWR received over 10,000 comment letters during the environmental review process, and it became clear that the BDCP as written—as a Habitat Conservation Plan/Natural Community Conservation Plan³—would be unable to satisfy legal standards necessary to secure fish and wildlife agency support and approval. In April 2015, the BDCP was bifurcated into separate ecosystem and conveyance initiatives, California EcoRestore and California WaterFix, respectively. The key change resulting from this action was that the Endangered Species Act (ESA) permit changed from a Section 10 permit (50-year incidental take permits) to a Section 7 permit (species-by-species permit), decreasing regulatory certainty if and when additional species become listed.⁴

¹ Water Code Section 85021.

² The Water Authority's Bay-Delta supply varies depending on how MWD chooses to operate its system—MWD solely controls the blend of State Water Project (SWP) water the Water Authority receives at any time. Over the last 12 months, MWD has provided 96 percent Colorado River Water and average 4 percent SWP water

³ See "Bay Delta Conservation Plan Environmental Review Process" memo for complete description of HCP/NCCP available at: www.sdcwa.org/sites/default/files/files/board/2013_10_16_IW_01_BDCP.pdf

⁴ For previous Water Authority Memos on BDCP and WaterFix, please see www.sdcwa.org/bay-delta-board-memos-presentations.

Discussion

Because Bay Delta supplies remain an important component of the Water Authority water supply portfolio, from the outset the Water Authority has actively monitored the development of the BDCP and conducted an extensive multi-disciplinary, inter-departmental review. The Water Authority provided several comment letters including formal comment letters on the draft EIR/EIS.⁵ The key issues the Water Authority Board identified with the BDCP were the lack of specificity on how much water the San Diego region would receive from the Project and details on the cost to San Diego County Water Authority ratepayers. The Water Authority's long-standing questions include:

- How big does the project need to be?
- How much will it cost?
- How much water will San Diego County receive?
- What portion of the cost will San Diego County be obligated to pay?
- Which agencies statewide will commit to paying for the WaterFix?
- How will San Diego County ratepayers be protected if other funding doesn't materialize?

With the abandonment of ESA permits under the HCP/NCCP approach, the same questions -- if not more -- for the Water Authority remain for WaterFix due to the uncertainties associated with lack of long-term permit assurances.

In an effort to bring clarity to those questions, the Board has received updates on numerous aspects of WaterFix, including the Superior Court's invalidation of the Delta Stewardship Council's Delta Action Plan due to its lack of "quantified or otherwise measurable targets,"⁶ a recent disclosure of an economic analysis performed by Dr. David Sunding for the Natural Resources Agency,⁷ and presentations from Dr. Sunding and Dr. Jeffrey Michael on the costs and benefits of WaterFix.^{8,9} Both Sunding and Michael question the agricultural contractors' ability to pay for WaterFix. Doubting the WaterFix as proposed will receive the broad support needed to be implementable, other groups continue to advocate for alternative solutions. Recently, the Public Policy Institute of California (PPIC) revisited a prior proposal to build one tunnel, rather than two, to reduce the capacity and quell fears of increased exports from opponents.¹⁰

On December 22, the 90,000-page Final EIR/EIS for California WaterFix was released.¹¹ With the release of the FEIR/FEIS, Biological Opinions are anticipated to be finalized early this year, followed by other

⁵ See "Review of the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement" memo dated September 16, 2015 available here: http://www.sdcwa.org/sites/default/files/files/board/2015_0916_BDCP_CAWaterFixDiscussionMemo_all-attachments.pdf

⁶ See "Status of Delta Stewardship Council Delta Plan" memo in July 2016 available here:

www.sdcwa.org/sites/default/files/files/water-management/BAY%20DELTA.pdf.

⁷ See "Update on California WaterFix and Sunding Report" memo in October 2016

www.sdcwa.org/sites/default/files/files/BdMemoUpdateCalWaterFix.PDF.

⁸ See "California WaterFix Economic Analysis" presentation by Dr. David Sunding available here:

www.sdcwa.org/sites/default/files/files/CalifWaterFixEconAnalysisOct16.pdf.

⁹ See "Benefits and Costs of the California WaterFix" presentation by Dr. Jeffrey Michael available here:

www.sdcwa.org/sites/default/files/files/IWC%20Waterfix%20benefit%20cost_Michael%20Jeffery.pdf.

¹⁰ "A grand compromise for the Delta outlined." December 2, 2016. Available at: <http://www.sacbee.com/opinion/california-forum/article118384708.html>

¹¹ Final Environmental Document for WaterFix Released, available at <https://www.usbr.gov/newsroom/newsrelease/detail.cfm?RecordID=57743>.

agreements needed for WaterFix to continue moving forward. When the environmental permits have been approved, a Notice of Determination (NOD) from the California Department of Water Resources (DWR) and a Record of Decision” (ROD) from the US Bureau of Reclamation can be approved. The NOD and ROD are required for WaterFix to advance.

The following timeline identifies key decisions upcoming for WaterFix:

- **December 2016**
 - Final EIR/EIS released: *US Bureau of Reclamation (USBR), DWR*
- **March/April 2017**
 - ESA authorizations: *US Fish & Wildlife Service (USFWS), National Marine Fisheries Service (NMFS), and the California Department of Fish and Wildlife (DFW)*
 - Biological Opinion for ESA Section 7 for federally-listed species
 - Section 2081 Permit for state-listed species
- **Mid-2017**
 - Cost Allocation Negotiations/ Financing Plan: *State Water Project and Central Valley Project contractors and DWR/USBR*
 - ROD/NOD, following receipt of ESA permits: *DWR/USBR¹²*
 - Water Agencies Board Actions: *Individual State Water Project and Central Valley Project contractors*
- **Later in 2017**
 - Clean Water Act Section 404 Permits: *US Army Corps of Engineers (USACE)*
 - application submitted August 26, 2015
- **2018**
 - Point of Diversion Permits: *State Water Resources Control Board (SWRCB)*
- **2018-Beyond**
 - Construction

Next steps

Staff will continue to provide updates to the Board, including the presentation of a more in-depth memo in February that will summarize how the lead agencies addressed the Water Authority’s comments in the Final EIR/EIS.

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¹² “No Federal or State decision on the proposed action will be made until *at least* 30 days after the U.S. Environmental Protection Agency (EPA) publishes a notice of availability of the Final EIR/EIS. After the 30-day period, the U.S. Department of the Interior will sign a Record of Decision and DWR will complete a Notice of Decision. The Record of Decision will state the actions that will be implemented by Reclamation and will discuss factors leading to the decisions.” Federal Register available at: <https://www.federalregister.gov/d/2016-31735/p-4>