



To: RCRC Board of Directors
From: Mary-Ann Warmerdam, Senior Legislative Advocate
Date: April 17, 2017
Re: Water Issues Update

Summary

California has been moving forward on a number of fronts to address fiscal, regulatory, legislative, and legal hurdles affecting water policy and water supply reliability. This memo summarizes many of these multi-year, multi-pronged water policy initiatives being pursued by the State.

Background

Historically, California's water supply has gone from drought to flood to drought again, rarely hitting the "normal" precipitation the State's infrastructure is typically operated against. This year is no different, and noteworthy for historically high levels of precipitation and snowpack with high water content. Officially, the drought is over in all but four counties: Fresno, Kings, Tulare and Tuolumne. These counties remain in a 'drought state' largely due to concerns over continued overdraft in their respective basins. Against this backdrop, several policy discussions continue to move forward against specified timelines.

Attention also continues to be focused on the deficiencies in the current water infrastructure/flood management system, highlighted by the dramatic failure of the spillway at Oroville Dam. The California Department of Water Resources (DWR) is under increased scrutiny regarding its response to the spillway failure, as well as the repairs needed to bring the Oroville Spillway into a more stable situation. Overlaying this concern regarding its ability to withstand what is expected to be near-record flood flows in this watershed and throughout much of the State.

California has been moving forward on these fronts, many of which will face fiscal, regulatory, legislative and legal hurdles as they take shape.

Issue

A host of water policy "conversations" are (or are expected to be) moving forward in the months ahead. While many of these have been evolving over the past several years as part of routine updates and regulatory criteria, others revolve around new programs with less understanding of how they fit with older programs or policy initiatives. Among these are the following:

- **Sustainable Groundwater Management Act (SGMA)** - In 2014, landmark water legislation – Senate Bill 1168 (Pavley) and Assembly Bill 1739 (Dickinson) – was enacted to establish SGMA. Together these measures provide a framework for local agencies to develop plans and implement strategies to sustainably manage groundwater resources within a defined period.

The next critical deadline for SGMA is June 30, 2017 in which a local agency/agencies in each high or medium priority groundwater basin must have officially formed one or more Groundwater Sustainability Agencies, which establishes the governance structure, for the entire basin.

RCRC and CSAC, in conjunction with California Department of Water Resources (DWR) and the State Water Resources Control Board (SWRCB), continue to facilitate dialogue with the SGMA County Working Group to address outstanding questions. The next webinar is scheduled for April 28, 2017, and will give counties an opportunity to clarify last minute questions that may have arisen. This will also allow agencies to receive a status update from the counties regarding the June 30, 2017 deadline.

- **Bay-Delta Water Quality Plan** – Typically updated every three years by the State Water Resources Control Board (SWRCB), the Bay-Delta Water Quality Plan sets water flow and salinity objectives for the Delta Estuary, including flow criteria. Over the past couple of months, the SWRCB has proposed substantially higher flow criteria than current criteria for both the San Joaquin and Sacramento River systems. If implemented as proposed, it translates into less water for consumptive uses, significantly constricts “available water” to meet sustainability goals under SGMA, and poses jeopardy to upstream water right holders.

While the above is viewed as overly prescriptive, if not punitive, it should be noted that water agencies in the affected watersheds have an opportunity to come forward and negotiate settlement agreements to meet their obligation(s) under the Bay-Delta Water Quality Plan. Implementation of these settlement agreements will serve in meeting the flow criteria, recognize habitat investments/improvements that have been made, and remain under the control of the respective participating local agencies. Based on informal conversations with the SWRCB, they would prefer to see the affected entities come forward and negotiate these agreements, thereby avoiding a unilateral approach to meeting Delta needs.

While many counties signed onto letters to the Governor and SWRCB expressing concern over the draft proposals, there is still opportunity for counties to encourage their local water agencies to engage in settlement conversations as a preferred, less punitive step in moving the process forward. There are several deadlines to be aware of in this two-phase process. First, July 2017 is when the Supplemental Environmental Document (SED) on the San Joaquin River is expected to be released; and the SWRCB is expected to act in September 2017. With respect to the Sacramento River, the SWRCB is expected to release the draft SED in late-Spring 2017 for public comment, and will consider adoption of the plan and certification of the final SED in late 2017.

- **California WaterFix** - The Bay Delta Conservation Plan (BDCP) was originally developed to support the issuance of long-term (50-year) incidental take permits for the Central Valley Project and State Water Project that met the requirements of the Federal Endangered Species Act and the California Endangered Species Act. This was to be accomplished through development of a Federal Habitat Conservation Plan and State Natural Communities Conservation Plan.

The proposed BDCP has now been recast as two separate efforts – water conveyance under California WaterFix, and habitat restoration under California EcoRestore – and the effort to secure federal Habitat Conservation Plan and State Natural Community Conservation Plan designations has been abandoned.

In December 2016, the state and federal agencies released their final Environmental Impact Report (EIR) and Environmental Impact Statement (EIS) for California WaterFix. Now that the EIR/EIS has been completed, Biological Opinions are expected to be finalized in mid-2017. Hearings are scheduled to commence on April 25, 2017 and run through much of the remainder of the year, clearing the way for final environmental clearances and completion of other necessary agreements. However, litigation from one or more interests is anticipated, and it is not yet clear what, if any, new direction will be coming from United States Department of Interior Secretary Ryan Zinke.

- **Water and Park Bonds** – Two bonds have been introduced in the state Legislature: Senate Bill 5 (De León) and Assembly Bill 18 (Eduardo Garcia). Both measures are: modelled on Proposition 1 program areas; anticipate a total general obligation bond of approximately \$3 billion for the June 2018 Primary Ballot; include funding for parks, land acquisition, as well as infrastructure improvements; address climate-related needs, including coastal protection; and drought-related issues. One notable difference is SB 5 includes approximately \$1.5 billion for water supply infrastructure.

AB 18 moved quickly through the Assembly and is expected to be sent to the Senate Natural Resources and Water Committee soon. SB 5 is scheduled for a hearing in the Senate Appropriations Committee on April 17, 2017. As noted in earlier reports, the two measures are expected to be consolidated in the Senate, with only one moving forward to the Governor. To date, the Governor has not weighed in on the conversation.

Staff Recommendation

RCRC staff will continue to engage on these issues as necessary to ensure the policy concerns of RCRC member counties are addressed.