

ASSEMBLY COMMITTEE ON WATER, PARKS AND WILDLIFE

**Thursday, March 6, 2014, 1:30-3:30 p.m.
San Joaquin County Board of Supervisors Chambers
Stockton, CA**

INFORMATIONAL HEARING SERIES: THE NEED FOR A 2014 WATER BOND: LOCAL PERSPECTIVES

BACKGROUND

The purpose of this hearing series is to explore the need for a general obligation bond in 2014 to help fund water-related projects and programs and to hear local perspectives on the potential public benefits to communities throughout the state from such a water bond. As the Governor's declaration of a drought state of emergency this year demonstrates, urgent investments are needed to better enable Californians to prepare for future water scarcity.

Today's hearing will focus on the Sacramento-San Joaquin Delta Overlay Region (Delta Overlay). In general a "hydrologic region" is the most basic planning unit that the California Department of Water Resources (DWR) uses for the California Water Plan, also known as "Bulletin 160." There are ten hydrologic regions in the State and the map for each one matches the contours of a major watershed, which is an area of land where all of the water that falls on it or flows under it drains to a common set of locations. The Delta differs from the ten hydrologic regions in that it is an "overlay area." Overlay areas are parts of the state that cross boundaries from one hydrologic region to another but share common water management conditions, issues, and integrated water planning opportunities. There are two overlay areas in the Water Plan. The other is the Mountain Counties Overlay.

The Delta encompasses about 740,000 acres of tidal influenced land near the confluence of the Sacramento and San Joaquin Rivers, and occupies portions of the Sacramento, San Joaquin, and San Francisco hydrologic regions. The geographic extent of the Delta Overlay coincides with the legal boundaries of the Delta set forth in Water Code Section 12220, which is also known as the "Legal Delta."

Short History of the 2009 Water Bond

In 2009, former Governor Schwarzenegger convened the Legislature in extraordinary session to take up issues related to protecting and restoring the Delta ecosystem and improving water reliability and management, including addressing water conveyance, storage, conservation and groundwater, and considering a general obligation bond. Subsequently, a historic five-bill package of water legislation was passed and signed, including SB 2 (Cogdill), Chapter 3, Statutes of the 2009-10 Seventh Extraordinary Session (SBX7 2).

SBX7 2 called for a bond to be placed on the November 2010 ballot that, if approved by the voters, would authorize the issuance of \$11.14 billion in general obligation bonds for a wide range of water projects and programs including water conservation and efficiency, groundwater protection and cleanup, integrated regional water management, ecosystem and watershed protection and restoration, water recycling, and water storage (Water Bond).

Delay and Anomaly

However, in 2010 and again in 2012, supporters of the Water Bond recognized that a sluggish economy coupled with the state's need to focus on its dire budget shortfall meant that delaying the bond vote could increase its chances of success. AB 1265 (Caballero) moved the Water Bond to the 2012 general election and deleted a provision allowing for-profit entities to be members of joint powers authorities for bond-funded surface water storage projects. AB 1422 (Perea) moved the Water Bond to the November 4, 2014 statewide general election but otherwise left the text unchanged. While changing the text of an initiative measure requires a 2/3rds vote of each house, changing the date of an election can be done with only a majority vote. As a result, the Water Bond currently on the ballot is still titled the "Safe, Clean, and Reliable Drinking Water Supply Act of 2012."

Efforts to Reduce and Refocus the Bond

Both houses of the Legislature have engaged in substantial efforts to reanalyze and right-size a bond so that voters can be confident that it addresses California's most pressing water infrastructure and program needs and is accountable.

In the Assembly, Speaker John A. Pérez convened a Water Bond Working Group comprised of members with diverse regional and statewide perspectives and chaired by Assemblymember Anthony Rendon. With a historic level of new members in the Assembly and a high degree of interest in the bond, the Working Group members conducted an extensive series of workshops and meetings among themselves and with their Assembly peers covering the background and composition of the current Water Bond, shifts in priorities that have occurred since it was passed in 2009, and the need to reduce its size and increase its accountability.

The 2013 Assembly Water Bond Working Group process included:

- 5 public hearings (3 in the Assembly; 2 in the Senate)
- 6 legislator briefings on water policy and funding
- Establishment of *Principles* that set priorities and emphasized accountability to the voters
- 3 rounds of public comments, and
- Publishing the *Water Bond Framework* & posting summaries of public comments on the Water, Parks & Wildlife Committee website at <http://awpw.assembly.ca.gov/waterbond>

Those efforts resulted in a public hearing in July of 2013 to present and receive comment on a set of Water Bond "principles" and another public hearing in August of 2013 to present and receive comment on a more specific "framework" for a revised water bond language. The Framework was then incorporated into AB 1331 (Rendon). Beginning in October 2013 Assemblymember Rendon, Chair of the Water, Parks & Wildlife Committee, started this series of Water Bond Informational Hearings to gain local perspectives from different areas of the State on the need for a water bond in 2014 and the best way to make such a bond effective and accountable.

AB 1331, the *Clean and Safe Drinking Water Act of 2014*, as currently proposed to be amended, repeals the existing bond and places an \$8 billion measure on the November 4, 2014 ballot that is better tailored to current water management challenges.¹ Specifically, AB 1331 includes:

- \$1 Billion for maintaining and improving Drinking Water Quality
- \$1.5 Billion for protecting Rivers & Watersheds
- \$2 Billion to fund integrated regional water management that will improve water delivery and help regions reduce the impact of climate change on water supply
- \$1 Billion for protecting the California Delta that is a key ecological resource and also critical to the state water supply system
- \$2.5 Billion for Water Storage projects that will also reduce the impact of climate change on clean, reliable and affordable water supply²

Meanwhile, the Senate has also actively sought to educate members of the Legislature and the public on a need to refocus and reduce the Water Bond by holding a series of four informational hearings during 2013.³ Currently, the primary Senate Water Bond vehicle is SB 848, the *Safe Drinking Water, Water Quality, and Flood Protection Act of 2014*. SB 848 repeals the exiting bond and placed an entirely new \$6.925 billion measure on the November 2014 ballot.

In addition to AB 1331 and SB 848, five other substantive water bond proposals and three water bond "intent" bills have been introduced. AB 1445 (Logue) is a \$5.8 billion proposal that dedicates \$4.8 billion to water storage projects and \$1 billion to water quality. AB 2043 (Bigelow) is a \$7.953 billion proposal modeled on the 2009 bond that funds water storage at \$3 billion, eliminates \$1.785 billion for conservation and watershed protection, and reduces the various other chapters of the 2009 bond by anywhere from 15-33%. AB 2686 (Perea) is modeled on AB 1331 but increases the Delta sustainability and water storage chapters of the bond to the same levels as found in the 2009 Water Bond (i.e. \$2.25 billion and \$3 billion, respectively). SB 927 (Canella) reduces the 2009 Water Bond to \$9.217 by also eliminating the

¹ Specific bills, including AB 1331 and SB 848, may be reviewed and tracked through the California Legislative Information web site maintained by the Office of Legislative Counsel at: <http://leginfo.legislature.ca.gov/>.

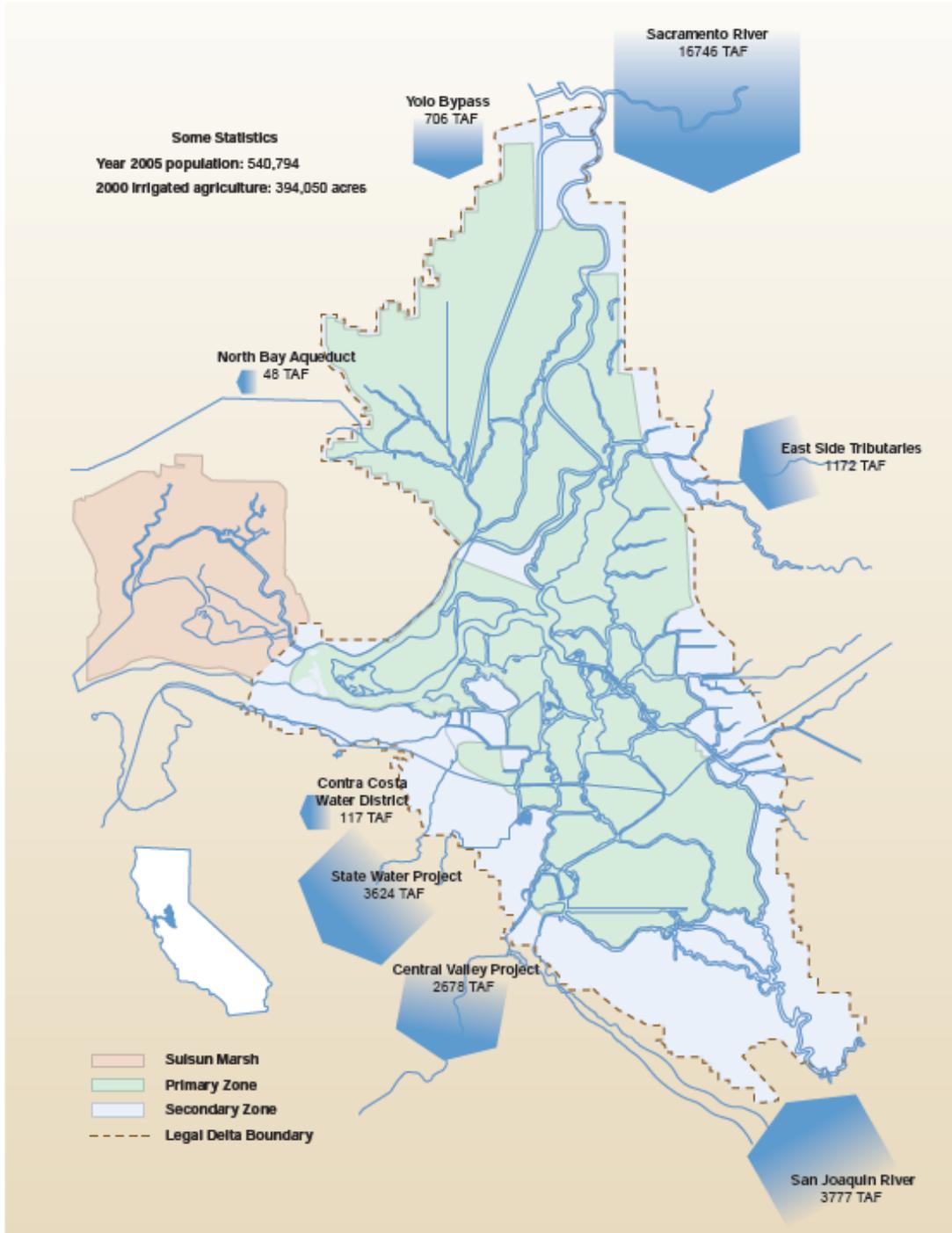
² Information on the Assembly water bond process, including links to comment letters on the Assembly Working Group Framework, can be found at: <http://awpw.assembly.ca.gov/waterbond> .

³ Information on the Senate Water Bond Oversight Hearings can be found at: <http://sntr.senate.ca.gov/informationaloversighthearings> .

entire \$1.785 billion chapter for conservation and watershed protection and deleting several other specific allocations in other chapters. SB 1370 (Galgiani) is a \$5.1 billion general obligation bond for the exclusive purpose of funding three surface storage projects: Sites Reservoir in the Sacramento Valley; Temperance Flat Reservoir in the San Joaquin Valley; and, an expansion of Los Vaqueros Reservoir, which serves part of the San Francisco Bay Region.

Delta Region Map

Courtesy of the California Water Plan (2009)



Delta Overlay Region

The Delta is a regional, state, and national treasure. It is an integral part of an ecosystem depended on by more than 750 wildlife species and more than 120 species of fish. As a migratory corridor the Delta hosts two-thirds of the state's salmon and nearly half of the waterfowl and shorebirds along the Pacific flyway. The Delta spans five counties and is home to more than 500,000 people. It is a place of great scenic beauty, historic towns, productive farms, close-knit communities, and varied recreation.

The Delta is also a highly modified place. Levees built 100 years ago transformed the Delta from marshlands into dry "islands." There are now over 1,300 miles of levees in the Delta and Suisun Marsh. Over years of intensive agriculture, peat soils from some of those islands have dried up and blown away leaving bowls of lands which are in some places 30 feet below the crests of the levees which protect them.

With most of the state's water falling in the north and most of its population in the south, the Delta also sits at the crossroads of California's vast water supply and delivery infrastructure. The two major water projects, the federal Central Valley Project (CVP) managed by the U.S. Department of Interior, Bureau of Reclamation and the State Water Project (SWP) managed by the California Department of Water Resources (DWR), operate in a coordinated fashion to store water in major reservoirs upstream of the Delta and then release that water into the Sacramento and San Joaquin Rivers. Once the water reaches the Delta, it is drawn towards pumps located in the south Delta and exported via the state's California Aqueduct and federal Delta-Mendota Canal. These two projects provide at least part of the water supply for two thirds of California's population and three million acres of irrigated agricultural land in central and southern California.

Competing demands on the Delta's resources have long been sources of bitter conflicts and profound challenges for stakeholders and policy makers. Between the state and federal governments, at least twenty agencies share and sometimes contest responsibility for Delta issues. Local entities within the Delta's watershed multiply that number several fold. Add affected stakeholders and the increase is exponential.

Delta Vision and the Delta Reform Act

In 2006, at the end of another three-year dry period, the Legislature and the Governor initiated a process to develop a new long-term vision for the Delta in order to reduce conflict and protect Delta resources. Senate Bill 1574 (Kuehl) required a cabinet committee to present recommendations for a Delta strategic vision. The Governor implemented SB 1574 by convening a Blue-Ribbon Task Force to advise the Cabinet Committee. The Task Force produced an October 2008 strategic plan known as the "Delta Vision," which the Cabinet Committee largely adopted and submitted, with its recommendations, to the Legislature on January 3, 2009.

After delivery of the Delta Vision recommendations, the Legislature held informational hearings from Delta experts, Task Force members, and the Schwarzenegger Administration, as well as the

public at large, and engaged in vigorous water policy discussions regarding the Delta Vision and other proposals to implement pending water issues. However, the Legislature adjourned without reaching agreement on how to implement the recommendations.

As a result, when the regular session ended, Governor Schwarzenegger called a special session, the 7th Extraordinary Session, to finish developing a water policy bill package. The 7th Extraordinary Session culminated in the signing of a historic five-bill package that included the Water Bond, as mentioned above and also SBX7 1 (Simitian).⁴

SBX7 1 created a new management framework for the Delta to achieve what are termed the "coequal goals" for the Delta. Those goals are a more reliable water supply for California and restoration of the Delta ecosystem. SBX7 1 also mandated that the coequal goals must be achieved in a way that "protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place." The legislation sought to achieve this through several actions including: restructuring an existing body, the Delta Protection Commission, so that it would have more local representation; creating the Delta Conservancy; and, adopting the Sacramento-San Joaquin Delta Reform Act (Water Code Section 85000 and sequence) which included, but was not limited to, creating the Delta Stewardship Council and tasking it with developing a long-term management plan for the Delta (Delta Plan).

The Delta Protection Commission

The mission of the Delta Protection Commission is to ensure orderly, balanced conservation and development of Delta land resources and improved flood protection. This includes, but is not limited to, agriculture, wildlife habitat, and recreational activities. SB 1 X7 required the Commission to adopt a Delta Economic Sustainability Plan in order to help inform the Delta Plan and made the Delta Protection Commission Chair a member of the Delta Stewardship Council in order to facilitate coordination and local representation.

Among other duties, the Delta Reform Act required the Commission to prepare an Economic Sustainability Plan (ESP) for the Delta region. The Commission adopted the ESP in January 2012 and stated it includes information and recommendations that inform the Delta Stewardship Council's policies concerning the socioeconomic sustainability of the Delta region.

As described by the Delta Protection Commission, the ESP incorporates input from community meetings and stakeholder discussions, as well as recommendations from two reports: the California Department of Parks and Recreation's *Recreation Proposal for the Sacramento-San Joaquin Delta and Suisun Marsh*, and the California Department of Food and Agriculture's *Evaluation of Policy Alternatives to Benefit Agriculture in the Delta*. The Commission states that it also includes additions and refinements based on an independent peer-review convened by the Delta Science Program. Recommendation topics in the ESP include, but are not limited to:

- Levees, public safety, and updates of the DWR flood management plan for the Delta

⁴ More on the historic five-bill package can be found at this water "FAQ" on the Committee's website: <http://awpw.assembly.ca.gov/waterfaq>

- Local government general plans and economic efforts affecting Delta agriculture, infrastructure, and Legacy Communities, and
- Options to encourage recreational investment in the Delta⁵

The Delta Conservancy

The Conservancy describes its mission as leading "efforts that advance environmental protection in the Delta and the economic well-being of Delta residents." The Conservancy's goal is to implement projects that will result in integrated environmental, economic and social benefits. To reach that goal, the Conservancy works with local communities, interested groups and state and federal agencies to seek creative opportunities to address challenges and reach agreement for moving these efforts forward. The Conservancy states that it "strives to ensure that programs and projects are prioritized and funded in a balanced manner according to geography and our legislative responsibilities."

In 2012 the Delta Conservancy adopted a strategic plan. As stated by the Conservancy, the Plan outlines its "goals, objectives, and strategies for the next five years" and includes potential funding and planning scenarios under which the Conservancy will likely operate during that time. The strategic plan informs the management of the Conservancy's program areas: ecosystem restoration; economic development; and, education and outreach. According to the Conservancy, the Strategic Plan builds the foundation for developing activities the Conservancy may put into action in order to carry out the following roles: advocating for the Delta; bringing additional funds into the Delta; supporting local collaboration and capacity building; and, leading efforts to address issues at the regional and local levels. In that last role, the Conservancy believes it is well-positioned to be a neutral convener that brings a variety of interests together to find common ground.⁶

Delta Stewardship Council

The Council is an independent state agency whose 7-member body consists of four appointments by the Governor and two by the Legislature plus the chair of the Delta Protection Commission. As mentioned above, the Council is tasked with developing, adopting, and commencing implementation of the Delta Plan, which emphasizes the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem" as foundation for state decisions as to Delta management. The Delta Plan includes, but is not limited to measures, which must:

- Promote state-wide water conservation, water use efficiency, and sustainable use of water;

⁵ For more information on the Delta Protection Commission and the Delta Economic Sustainability Plan go to <http://www.delta.ca.gov/>

⁶ For more information on the Conservancy and its latest efforts, go to: <http://www.deltaconservancy.ca.gov/>

- Improve water conveyance and storage and the operations of both to achieve the coequal goals.
- Attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments.
- Determine whether state or local agency projects are consistent with the Delta Plan, including the Bay Delta Conservation Plan (BDCP) described below.

On May 16, 2013 the Council unanimously adopted the Delta Plan. It is now being challenged in state court.⁷

The Delta Reform Act also established the Delta Independent Science Board (Delta ISB) and the Delta Science Program. The Delta ISB consists of 10 nationally and internationally prominent scientists appointed by the Council. The Delta ISB reports to the full Council and is tasked by the Delta Reform Act with providing the best possible unbiased scientific information to inform water and environmental decisionmaking in the Delta. In particular, The Delta Reform Act requires the Delta ISB to conduct independent reviews of specific products to be developed in the BDCP process, including the Draft Environmental Impact Statement/Report developed pursuant to both the National Environmental Policy Act and the California Environmental Quality Act. The Independent Science Board has also been asked to review proposed BDCP-related water operations.

Bay Delta Conservation Plan

The BDCP process is a stakeholder-driven effort to obtain 50-year Endangered Species Act (ESA) permits for SWP operations in the Delta by developing a Habitat Conservation Plan (HCP) pursuant to the federal ESA and a Natural Community Conservation Plan (NCCP) under the State Natural Community Conservation Planning Act.

If the BDCP process succeeds in crafting a plan that meets NCCP and HCP standards, then the California Department of Fish and Wildlife, the U.S. Fish and Wildlife Service (USFWS) and the National Marine Fisheries Service (NMFS) will issue permits that may include some level of "regulatory assurances" over the plan period. Regulatory assurances mean that if the plan is implemented as approved then no further money, water, or land can be required from the permit holder to address the impacts to species from SWP operations (and all of the other activities covered in the Plan) beyond what is included in the Plan.

Because DWR and the federal CVP operate in a coordinated fashion pursuant to a 1986 agreement, a change to DWR's operations also changes the CVP's. So, Reclamation, which operates the CVP, will also need to ask for new federal Endangered Species Act authorization based on the BDCP. That is why the current BDCP environmental review document is both an Environmental Impact Report (EIR) under the California Environmental Quality Act (a state law) and an Environmental Impact Statement (EIS) under the National Environmental Policy Act (a federal law) and why DWR, Reclamation, USFWS and NMFS are all lead agencies.

⁷ For the most up-to-date information on the implementation of the Delta Plan or the work of the Delta ISB or Science Program go to <http://deltacouncil.ca.gov/>

The BDCP proposed project and its associated Draft EIR/EIS was released for public review on December 13, 2013 and the public comment period will extend until June 13, 2014. The preferred project, known as "Alternative 4" in the Draft EIR/EIS would include the construction of three new intakes on the Sacramento River capable of diverting a maximum of 9,000 cubic feet per second (cfs) and to convey that water through two tunnels under the Delta sized at 15,000 cfs. It would also include approximately 150,000 acres of habitat restoration and other actions.

Chapter 8 of AB 1331 addresses Delta Sustainability. It includes \$1 billion in funding for projects that protect, restore, and enhance the Delta ecosystem; maintain and improve existing Delta levees; and, otherwise promote the sustainability of the Delta. However, AB 1331 specifically prohibits any funds in the bond from being expended to pay the costs of the design, construction, operation, mitigation, or maintenance of Delta conveyance facilities. AB 1331 states those costs shall be the responsibility of the water agencies that benefit from those facilities. (Water Code Section 79712.)

Governor's Water Action Plan

On Monday, January 27, 2014 the California Natural Resources Agency, the California Department of Food and Agriculture, and the California Environmental Protection Agency, jointly released a final draft of the California Water Action Plan (Action Plan).

The Action Plan identifies multiple water-related challenges that the State currently faces including drought, flood, declining groundwater basins, poor water quality, and loss of fish and wildlife habitat. The Action Plan states that it is "based on three broad objectives: more reliable water supplies, the restoration of important species and habitat, and a more resilient, sustainably managed water resources system (water supply, water quality, flood protection, and environment) that can better withstand inevitable and unforeseen pressures in the coming decades."

The Action Plan sets out an ambitious set of strategies to be implemented in the next five years including, but not limited to:

- Making conservation a way of life;
- Investing in integrated water management and increasing regional self-reliance;
- Protecting and restoring important ecosystems, including in the Delta;
- Managing and preparing for dry periods;
- Expanding water storage capacity; and,
- Providing safe drinking water

All of these essential actions would be critically advanced by the funding provided in AB 1331 – the *Clean and Safe Drinking Water Act of 2014*.