



To: RCRC Board of Directors
From: Mary-Ann Warmerdam, Senior Legislative Advocate
Arthur Wylene, General Counsel
Date: April 16, 2019
Re: Water Issues Update – **Informational Item**

Summary

This memo provides an update on a number of issues involving California water policy at the state and federal levels.

Background

As noted in previous reports to the RCRC Board of Directors, the Newsom Administration has largely continued with pre-inaugural indications with respect to water policy. The projects and/or issues that have been the subject of discussion over the past several months continue to proceed as discussed below.

Issue

Bay-Delta Water Quality Control Plan – In 2018, the State Water Resources Control Board (SWRCB) released the third, and what was anticipated to be, the final draft of the Bay-Delta Water Quality Control Plan (the Plan) update for the Lower San Joaquin River and Southern Delta, and an accompanying Substitute Environmental Document. The release of this draft culminated a nine-year process during which the SWRCB studied and analyzed options, conducted public outreach, including public hearings in affected areas, and reviewed more than 1,400 comment letters.

The SWRCB began consideration of the final draft plan in August 2018, but after receiving requests from both Governor Brown and Governor-elect Newsom, action was delayed to early December. At the December 2018 meeting, after much discussion and several amendments by SWRCB Members off of the dais, the SWRCB adopted amendments to the Bay Delta Water Quality Plan that largely left intact the increased flow criteria albeit with some revisions, namely: 1) that the SWRCB staff will work with the California Natural Resources Agency in completing a Delta watershed-wide agreement. This would include potential amendments to implement agreements relating to the Tuolumne River as an alternatives for a future, comprehensive Bay-Delta Plan update due to be presented to the Board for consideration as early as possible after December 1, 2019. Also, 2) the Plan amendments are not self-implementing. Additional regulatory action will be required. These two criteria give some opportunity

for additional Voluntary Stewardship Agreements (VSAs) to be developed as an alternative to the SWRCB's December actions.

Subsequent to this action, several entities commenced legal proceedings against the SWRCB's action. This legal action was not unexpected given the jeopardy to the water supplies of the San Joaquin River tributaries. It should be noted that Governor Newsom in his budget briefing did reiterate his desire to see the needs of the Bay-Delta Water Quality Plan be met through the adoption of VSAs, not only for the San Joaquin River tributaries, but also for the similar conversations that will soon be commenced with Sacramento River water users.

As of mid-April, work continues to secure and finalize VSAs against the previously submitted framework. While it was acknowledged that more work needs to be done, overall, there is a sense of optimism that VSAs will provide an alternative to the SWRCB's original draft proposal. This optimism will be critical as the SWRCB will next consider similar actions off of the Sacramento River as the second phase of The Plan commences in the next few months.

Sustainable Groundwater Management Act – With final basin prioritizations completed, local agencies throughout the state are focused on timelines. Basins identified as high- or medium-priority are required to adopt groundwater sustainability plans beginning in 2020, with sustainability to be achieved by 2040. The first plans are due January 2020, and there are some early indications that the Groundwater Sustainability Agencies (GSAs) are not making uniform progress in developing their plans. This should be cause for some concern given that those GSAs that fail to develop plans are opening-up the opportunity for the SWRCB to manage the basin on behalf of the state's interest.

Among the more challenging issues facing GSAs is the question of funding the development of the plans themselves. Not surprisingly, the most vexing issue is around fees: should they be assessed against those entities extracting from the basin, and, if so, what is most equitable given the make-up of groundwater users in the basin? Not surprisingly, the degree of difficulty correlates very closely to the severity of the overdraft to be addressed.

On a more positive note, a recent Stanford University study offers a map to where flooded fields may best replenish groundwater aquifers. While some basins are deemed to have permanently depleted their capacity for groundwater storage, replenishing them through managed flooding is increasingly viewed as a key opportunity even as moving "excess flood flows" can be a limiting factor (read more Stanford News here: <https://news.stanford.edu/2019/04/10/can-flooded-fields-help-replenish-groundwater/>).

Along the same lines, at the March 2019 meeting of the California Water Commission (CWC) a panel discussed DWR's FloodMar with a focus on using agricultural lands for groundwater recharge. Similar to the presentation before the RCRC Board of Directors in January, the opportunities for FloodMar implementation are viewed favorably by DWR with a key reliance on local government collaboration in concert with SGMA implementation at the local level.

California WaterFix – The SWRCB has completed the second, evidentiary-phase of the hearing process addressing the requests by the state and federal water projects to change their points of diversion. However, Governor Newsom essentially “reset” the conversation when he announced during his state of the state address: *“I do not support the Water Fix as currently configured. Meaning, I do not support the twin tunnels. But we can build on the important work that’s already been done. That’s why I do support a single tunnel.”*

Trying to answer what a “one-tunnel” project would look like was the focus of a workshop for Metropolitan Water District (MWD) Board Members. Covered was: 1) a comparison of a single tunnel project at both 3000 cfs and 6000 cfs to the California Water Fix project; 2) looking at water delivery capability; 3) the ability to divert stormwater flows; and 4) water quality benefits, reverse flows, seismic events, and project costs. MWD expressed a desire to continue to work with the Newsom Administration and is reviewing various alternatives. To date, no final decisions have been made, so it is unknown where things are headed, but there is an expectation that decisions will be made on the new configuration and environmental analysis in the next 60 days.

Staff Recommendation

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