

## California Changing How It Manages Water Use; Passage of Bond Funding in 2012 Critical to Success

Most of 2010 was spent implementing the comprehensive water policy legislation passed in 2009. The package represents a year's worth of intense meetings, first by stakeholders working with legislative staff, and then by legislators in working groups to develop language. The result is that California is changing how water is managed in the state.

The package consists of five bills whose content reflects the inextricable linkages between the health of the Delta and California's statewide water supply management practices and policies (see summary of bills at end of this article). The bills originate from the goals set out in the blue-ribbon Delta Vision Strategic Plan (See box). The final plan released early in 2009 contained findings and recommendations for managing the Delta as a crucial component of California's water supply system.

The package included new policies such as mandatory groundwater monitoring, enhanced reporting and enforcement of water diversions, a 20 percent per capita reduction in water usage, a new governance structure for the Delta, new requirements for agricultural water uses and a new conservancy—all of which reflect a major change in water politics.

### Why Water Is Short (1): Drought

Three years of drought have changed the water landscape in California. Even though 2010 was considered a wet precipitation year, there is no relief for the state because California is chronically short of water even in normal years. The only way to resolve the chronic shortage is to move forward with a comprehensive, long-term fix for the Delta, plus increased storage and conveyance capabilities.

Initial water allocations for 2010 from the State Water Project (SWP) were at the historic low of 5 percent, but that number was increased to 50 percent. The number is updated monthly based on precipitation, snow pack and watershed conditions. The average allocation has been about 68 percent of what is requested. Allocations from the federal Central Valley Project (CVP) also were very conservative, but were increased later during the year for some areas as more water became available.

In 2009 the initial allocation was 15 percent, but moved to 40 percent. Still, there was water in the San Luis Reservoir that could have been moved across the Delta to ease the shortage. The movement was prevented, however, by Delta smelt restrictions. In 2010, court-ordered flow restrictions were lifted for a brief two-week period, but were again reinstated. In 2011, endangered species restrictions probably will further constrain water movement, keeping the allocation number low, even if it is a normal to wet water year.

Water levels in reservoirs throughout the state were drawn down to alarming levels to compensate for three dry years in a row. Levels have recovered to a degree with last year's heavy precipitation, but because many of the state's dams and reservoirs serve flood control purposes, they can't be allowed



San Luis Reservoir: 1995 (top), September 2009 (middle) and April 2010 (bottom). Photos by Dale Kolke, California Department of Water Resources

to fill completely (see chart). Groundwater storage in the northern Sacramento Valley in 2010 is up 2 feet from 2009, but still 4 feet lower than the last wet water year, 2006. Southern Sacramento Valley groundwater levels are similar to 2008, but again significantly lower than 2006. The combined impact of recent court-ordered cuts in water deliveries, rainfall shortages, slow groundwater recovery and low reservoir carryover is creating unmatched challenges for businesses, agriculture and consumers.

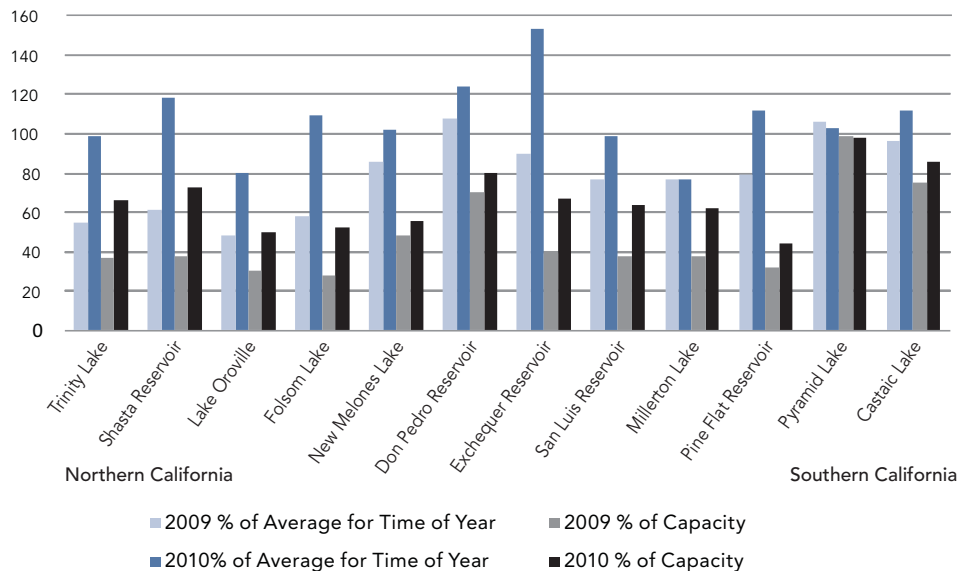
### Changed Conditions

Although the 2007–2009 drought appears to be comparable to the 1977 drought, changed conditions make it more difficult to provide enough water to meet the state’s needs. Population is larger by nearly 75 percent, or about 16 million more people. California has less water due to a legal settlement reducing what the state may draw from the Colorado River, court settlements requiring it to restore water flows to the dry parts of the San Joaquin River and the Owens River watershed, and a reallocation of CVP supplies for environmental purposes. There are many more restrictions on how water is moved within the state, especially through the Sacramento-San Joaquin Delta. Many in the environmental community contend that climate change threatens to make future droughts even more severe.

In response to the drought, the Governor issued executive orders and proclamations in 2008 and 2009, directing state agencies to take immediate actions to address the crisis. The orders set in place a variety of actions to expedite grants for new or ongoing water conservation and water use reduction programs, conduct conservation outreach programs and change SWP operations to alleviate critical impacts to San Joaquin Valley agriculture. Also, the Department of Water Resources (DWR) was required to provide a report on the state’s drought conditions and water availability. DWR subsequently developed a Drought Contingency Plan to address the possibility of continuing dry conditions in 2010 and beyond. The plan contains strategies and actions state agencies have taken or may take to prepare for, respond to and recover from droughts. Some components may be applied even if the drought has abated.

The state DWR set up a Drought Water Bank for 2009.

## California Reservoir Capacity (Low 2009, High 2010)



Source: Department of Water Resources, December 22, 2009, December 16, 2010

Water was purchased from willing sellers upstream of the Sacramento-San Joaquin Delta. The water was transferred via SWP or CVP facilities to water suppliers at risk of experiencing water shortages in 2009 due to drought conditions and requiring supplemental water supplies to meet anticipated demands. Water in the bank was available for purchase by public and private water suppliers based on certain criteria. Technical work was done in preparation of a 2010 bank even though it proved to be a wet year.

Many communities across the state imposed temporary mandatory water restrictions for outdoor landscape watering and car washing. Almost all cities, counties and water agencies asked their residents and businesses to cut usage by 10 percent to 15 percent or cut 20 gallons a day per person. Results were mixed with almost none meeting the targets. Many water districts were forced to raise rates in 2009—some to purchase more water and others as a means to curtail water usage. In 2010, prices continued to rise, much to the dismay of ratepayers, because using less does not mean paying less as the fixed costs of delivering water, such as maintenance and operations, must be met regardless of water usage. Looking into the future where droughts are cyclical and compounded by global warming, many localities are expected to step up conservation with new rules and stronger enforcement.

On the table are proposals that include year-round regulations against water waste, such as landscape irrigation runoff, outdoor watering schedules, car washing, sidewalk rinsing and bans on ornamental fountains. The biggest challenge will be proposals to tier water rates based on usage.

## Delta Vision Plan Goals: Restore Delta Ecosystem, Create Reliable Water Supply

The Delta Vision initiative was enacted by an executive order of Governor Arnold Schwarzenegger. It was to include a risk assessment for the Delta and the development of both a vision and strategic plan for the Delta. The vision was completed by the end of 2007, the strategic plan by October 2008 and the final report was completed in 2009.

The Delta Vision Plan builds on the work done through the CALFED program and encompasses the Delta's full array of infrastructure and land use resources. The need for the Delta Vision is based on the growing consensus among scientists and many others that:

- Current land and water uses in the Delta, protected by an aging and deteriorating levee system, are not sustainable with current practices and resources.
- Major seismic events, land subsidence, sea level rise, regional climate change and continuing urbanization in the Delta pose imminent threats to public health and safety, and the environment.
- Potentially devastating national and statewide economic and environmental consequences will result unless a plan is formulated for implementing sustainable land and water management practices within the Delta.

- Delta water sustains more than 500,000 people who live in the Delta, more than 300,000 acres of agriculture within the Delta, 750 plant and animal species that call the Delta home, as well as more than 23 million Californians and 7 million irrigated acres of agriculture throughout the state. Energy, communications and transportation facilities that traverse the Delta are vital to the economic health of California.

The initiative established a Blue Ribbon Task Force responsible for recommending future actions to achieve a sustainable Delta to the Delta Vision Committee, which was chaired by the Secretary of Resources and included the Secretaries of Business, Transportation and Housing, Cal/EPA, Food and Agriculture and the President of the California Public Utilities Commission. The task force enlisted the advice and help of a stakeholder advisory group in the process of creating a new vision for the Delta.

The task force recommended one co-equal goal: Restore the Delta ecosystem and create a reliable water supply for California. Co-equal is defined to mean harmonizing a desired Delta ecosystem and the necessity to provide water to Californians.

There are seven goals in the plan with recommended strategies to reach the goals:

- Acknowledge the co-equal status of restoring the Delta ecosystem and creating a more reliable water supply in California.
- Recognize and enhance the unique cultural, recreational and agricultural values of the Delta as an evolving place, an action critical to achieving the co-equal goal.
- Restore the Delta as the heart of a healthy estuary.
- Promote water conservation, efficiency and sustainable use.
- Build facilities to improve the existing water conveyance system and expand statewide storage, and operate both to achieve the co-equal goal.
- Reduce risks to people, property and state interests in the Delta by effective emergency preparedness, appropriate land uses and strategic levee investments.
- Establish a new governance structure with the authority, responsibility, accountability and science support, and secure funding to achieve these goals.

These goals and their recommended strategies form the basis for the water policy package that the Governor signed.

The more water consumed, the more it will cost, provided there is any more available and again, water rates will rise, not only to cover operational costs, but also to repair aging water systems throughout the state. Environmental justice advocates see tiered water rates as unfairly punitive to larger families and low-income residents.

Outdoor watering restrictions burden the warmer parts of the state, such as the Central Valley, causing a trade-off of less water usage but more energy consumption to operate necessary air conditioning when temperatures are in the 100s for days at a time. Trees and lawns keep temperatures more moderate. There are conversations emanating from the environmental community that new developments should be water-neutral, further increasing the cost of developing new housing and commercial property and stymieing affordable housing.

### **Costs of Drought**

The negative effect of the drought on the business community continues to rise. Approximately 500,000 acres

of land have been fallowed, 260,000 on the west side of the valley alone. Thousands more acres were switched to lower-value crops using less water. Several thousand acres of almonds and pomegranates were abandoned. Kern County Water Agency estimates that farmers in its area fallowed 40,000 acres and underwatered another 48,000 acres. It's estimated that \$710 million of farm revenue will be lost in the Central Valley and cause a loss of 35,000 jobs. Fifty-three of the state's 58 counties qualified for federal disaster assistance. As the price of water increases, the profit margin for water-intensive business enterprises decreases, creating an uneven playing field for California businesses, such as agriculture, chip manufacturers, breweries, utilities and hospitals.

Ultimately, an ongoing drought will result in higher production costs for businesses, more pressure on the state's groundwater resources, higher prices for produce and other food products, and an explosive fire season that will be hard to combat, given limited resources, especially water.

## Why Water Is Short (2): Court Rulings

In late summer 2007, a U.S. federal court judge ordered the SWP and the CVP to reduce water deliveries by as much as one-third in order to protect declining numbers of threatened Delta smelt. This is the largest court-ordered redirection of water in state history and potentially the largest action ever taken under the federal Endangered Species Act. By August 2009, 430,000 acre-feet of water—enough to serve more than 2 million people for one year—was cut from the state's water supply in order to satisfy the requirements of the Delta smelt biological opinion.

The judge ruled the biological opinion was insufficient and ordered the U.S. Fish and Wildlife Service to revise it, but the revised opinion still confirms the need for reducing water deliveries and requires water managers to flush the Delta of saltwater in the fall of wet years. Those actions could significantly deplete water supplies in about one in five years.

### **More Restrictions**

Another recent case in U.S. federal court involved the biological opinions for three species—two salmon and steelhead trout—that are in danger of extinction. The judge ordered the U.S. Fish and Wildlife Service to write new biological opinions, outlining how the water projects should be operated while protecting the fish. The revised opinions set guidelines for SWP and CVP pumping operations out of the Delta that increase restrictions on water project operations even though current restrictions severely limit the projects to taking no more than 2 percent of the listed salmon populations in the Delta.

The opinions ignore recent data showing changing ocean conditions have been identified by federal fish agencies and scientists as the primary cause of salmon decline, in addition to significant ocean harvests by over fishing. The DWR estimates the new salmon regulations will result in average cuts of 300,000 to 500,000 acre-feet of water each year; this is in addition to the cutbacks imposed for the smelt.

Meanwhile, environmental and fisheries groups petitioned the court, demanding additional cuts in Delta water deliveries, more water releases from Folsom Reservoir and establishment of minimum storage levels in Lake Shasta. The groups said such actions were needed to benefit the three protected species. The judge declined, saying, “In light of the potential consequences of further reducing the available CVP project water (yield) to implement such remedies, and in the face of substantial scientific disagreements about the effectiveness and need for such remedies, it is imprudent to issue any such relief without further hearings.”

### **Water-Favorable Decision**

In late 2009 a federal court ruled in favor of the CVP water agencies, ordering the federal fish agencies to comply with environmental laws and take into account the harm that the water cutbacks have on people. The judge did not order any immediate changes in the smelt plan or the resulting water cutbacks for Westside agriculture or users in the Bay Area and Southern California. That could change,

however, as more information becomes available.

The decision does not open the door to considering the economic effects of the plan, but it could conclude there is an environmental effect on humans—such as dust rising from fallowed fields harming air quality—that may result in more water for the west side of the valley.

California lawmakers and Obama administration officials asked the National Research Council, a panel of scientists and experts, to conduct a \$1.5 billion California water study. U.S. Senator Dianne Feinstein (D-San Francisco) and U.S. House of Representatives members also urged the Obama administration to conduct the independent review, going so far as to secure \$750,000 for its funding as part of a 2010 appropriation bill.

The first of two reports was released in March 2010 and examined the “scientific questions, assumptions and conclusions” that were included in the biological opinions. It found that while most of the federal actions to protect Delta fish species were scientifically justified, there are numerous data gaps and uncertainties. Restrictions on diverting water in the Delta have been in effect since 2008 to protect threatened and endangered species, including Delta smelt, Chinook salmon, Central Valley steelhead and green sturgeon. The restrictions have reduced water deliveries to Central Valley farmers and Southern California users, but have not quantifiably improved fish populations so far. The second report (due November 2011) will study how to incorporate “science and adaptive management concepts” into the Bay-Delta management and restoration planning process.

## Policy Solution: Governance Is Key

Early in 2009, the Senate pro tem set the stage for the water policy debate by making it clear that he would not entertain moving a water bond until a governance framework for the Delta was in place. Subsequently, several bills were introduced containing various parts of the overall package. The bills moved through the legislative process as works in progress.

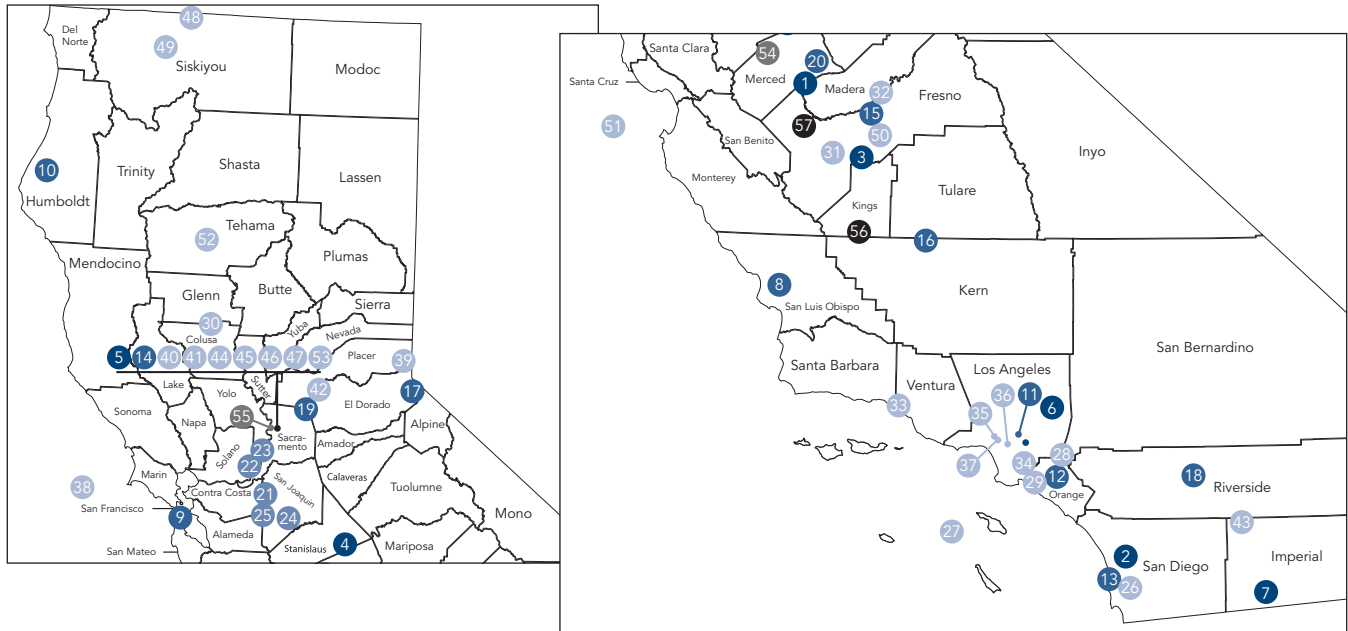
The most controversial subject was that of governance in the Delta. Heavy opposition from residents, farmers and local governments in the Delta, and some Delta area legislators continues even though the package has been signed and implementation is under way.

The governance bill establishes the legal framework for the state to make decisions as to its activities in the Delta. By adopting the two “co-equal goals” of “restoring the Delta ecosystem and creating a more reliable water supply for California,” the state now has an explicit plan that lays out how it will approach resolving the inherent conflicts in managing Delta resources. The co-equal goals mark an important shift in policy for California's approach to the Delta.

### **Shift Toward Managing Risk**

The shift moves the state from governing by crisis management to managing the levels of risk. Although the state relies heavily on the Delta for moving water, it is well understood

# Where the 2010 Water Bond Money Will Be Spent\*



## ● Chapter 5: Drought Relief—\$455 million statewide

Subject to legislative appropriation and administration by the Department of Water Resources

1. Emergency Drought Relief Projects: \$190 million
2. San Diego County Emergency Water Supplies: \$100 million
3. Aid to Economically Distressed Communities: \$90 million
4. Small Community Wastewater Treatment: \$75 million
5. Safe Drinking Water Fund: \$80 million
6. City of Maywood Safe Water: \$8 million
7. Projects on New River: \$20 million

## ● Chapter 6: Water Supply Reliability—\$1.05 billion

Subject to legislative appropriation and administration by the Department of Water Resources

8. Central Coast Water Supply Reliability: \$58 million
9. San Francisco Bay Water Supply Reliability: \$132 million
10. North Coast Water Supply Reliability: \$45 million
11. Los Angeles Subregion Water Supply Reliability: \$198 million
12. Santa Ana Subregion Water Supply Reliability: \$128 million
13. San Diego Subregion Water Supply Reliability: \$87 million
14. Sacramento River Water Supply Reliability: \$76 million
15. San Joaquin River Water Supply Reliability: \$64 million
16. Tulare/Kern Water Supply Reliability: \$70 million
17. North/South Lahontan Water Supply Reliability: \$51 million
18. Colorado River Basin Water Supply Reliability: \$47 million
19. Mountain Counties Overlay Water Supply Reliability: \$44 million
20. UC Sierra Nevada Research Institute: \$10 million

## ● Chapter 7: Delta Sustainability—\$2.25 billion

Subject to legislative appropriation.

21. Delta Sustainability (including below)
22. Delta Recovery Projects: \$750 million
23. Delta Wastewater Treatment: \$50 million
24. Delta Financial Relief: \$250 million
25. Delta Ecosystem Recovery: \$1.5 million

## Chapter 8: Statewide Water System Operational Improvement—\$3 billion

Continuously appropriated to the California Water Commission to fund public benefits associated with water storage projects that improve statewide water system operations and provide Delta ecosystem benefits.

## ● Chapter 9: Conservation and Watershed Protection—\$1.785 billion

Subject to legislative appropriation.

26. San Diego River Conservancy: \$20 million
27. State Coastal Conservancy: \$250 million
28. Santa Ana River Parkway: \$40 million
29. Bolsa Chica Wetlands: \$20 million
30. Wildlife Conservation Board: \$100 million
31. Wildlife Conservation Board: \$215 million
32. San Joaquin River Conservancy: \$25 million
33. Ventura County: \$20 million
34. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy: \$75 million
35. Santa Monica Mountains Conservancy: \$75 million
36. Baldwin Hills Conservancy: \$20 million
37. Santa Monica Bay Watershed: \$25 million
38. Salmonid Recovery: \$50 million
39. Lake Tahoe Conservancy: \$100 million
40. Farmland Conservancy Program: \$20 million
41. California River Parkways Act: \$50 million
42. Sierra Nevada Conservancy: \$75 million
43. Salton Sea Restoration: \$100 million
44. Climate Change Impact: \$10 million
45. Watershed Education Facilities: \$30 million
46. Waterfowl Habitat: \$10 million
47. 'Fuel Treatment' and Reforestation: \$100 million
48. Klamath River Dam Removal: \$250 million
49. Siskiyou County Recovery: \$20 million
50. Cal State Water Program: \$50 million
51. Ocean Protection Act: \$50 million
52. Sacramento River Salmonids: \$60 million
53. 'Infrastructure Mitigation': \$50 million

## ● Chapter 10: Groundwater Protection and Water Quality—\$1 billion

Subject to legislative appropriation.

54. Priority Cleanup Projects: \$100 million
55. Drinking Water Emergency Funds: \$100 million

## ● Chapter 11: Water Recycling—\$1 billion

Subject to legislative appropriation.

56. Restoring Water Supplies: \$50 million
57. Efficient Water Use and Conservation: \$250 million

\* Additional money remains to be allocated, statewide and regionally.

Sources: Department of Water Resources, KQED Public Media for Northern California

that the Delta is unsustainable in its current use configuration and is in the midst of severe ecological decline. To that end, there is a provision in the governance bill that states, “The policy of the State of California is to reduce reliance on the Delta in meeting California’s future water supply needs through a statewide strategy of investing in improved regional supplies, conservation and water use efficiency.”

One prominent strategy to improve the Delta is to mitigate the factors causing the decline. Diversions of water, pollution, urbanization, flood and seismic risks, and invasive species are just a few factors that threaten the Delta’s health. The restoration will be handled through new agencies and councils, reforming existing regional agencies, expanding some authorities and implementing a myriad of planning processes. Complicating the issue is the fact that no single entity today is responsible for managing activities in the Delta. That may no longer be the case with the establishment of the Delta Stewardship Council.

### ***Delta Stewardship Council***

The Delta Stewardship Council, a new independent agency, has the task of developing a Delta Plan, a comprehensive plan for the Delta that furthers the co-equal goals of reliability and environmental protection. By addressing environmental, recreational, agricultural and economic issues, and by incorporating the work of other regional commissions and plans, the Delta Plan is meant to become the overall long-term guidance document for the Delta.

The council adopted an Interim Plan that includes recommendations for early actions, projects and programs that advance the co-equal goals. It provides the primary framework for the council’s actions until the final Delta Plan is adopted as required by law by January 1, 2012. The Interim Plan assists the council with its responsibilities in relation to other agencies and establishes the legal authority, work processes and procedures that will be carried forward in the final Delta Plan.

Local governments whose jurisdiction falls within the Delta and Suisun Marsh must certify that certain agency decisions, like approval of a development project or land use policy, are consistent with the Delta Plan. Challenges to projects can be filed with the council and should the council agree, the project must be revised for certification to be granted. Transportation and land use projects with climate change elements are to be reviewed by the council to ensure management of the Delta is consistent with climate change goals.

There are those who criticize the council as being weak, while others counter by saying it has a great deal of authority. The council decides if the Bay Delta Conservation Plan (BDCP) will be incorporated into the Delta Plan. That’s significant because it’s the BDCP that reviews and decides the conveyance issue for the Delta (that is, peripheral canal). The goal of the BDCP is to provide for both a conservation plan to preserve species and their habitats, and improve water supply reliability. The BDCP is a collaborative effort between water agencies, environmental

organizations, agricultural and business stakeholders, and state and federal agencies to map out a comprehensive conservation plan for the deteriorating Delta. It is a more comprehensive way of complying with the state and federal endangered species acts.

Rather than regulating threatened species individually, the BDCP aims to find a multi-species habitat strategy that combines restoration of the ecosystem with operations of the water systems. The BDCP proposes separating water supply movement from the Delta ecosystem to protect fish while meeting the co-equal goal of water deliveries for human use. The plan will identify a set of water flow and habitat restoration actions to contribute to the recovery of endangered and sensitive species and their habitats in the Delta.

In order to select the most appropriate elements of a final conservation plan, the BDCP will consider a range of options for accomplishing these goals using information developed as part of an environmental review process. Potential habitat restoration and water supply conveyance options included in the plan will be assessed through an Environmental Impact Report/Environmental Impact Statement. State and federal water contractors are funding the planning process and the supporting environmental assessments. A draft report was pending release as the *Business Issues and Legislative Guide* went to press.

A provision of the governance bill required the State Water Resources Control Board to make a new determination on how much water flow is needed to protect the public trust resources in the Delta. The timeframe in the legislation was so short that it specifically said the flow criteria are not binding or considered pre-decisional in any future state water board action. The 191-page report indicated that there is sufficient scientific information to support the need for increased flows, but there is “uncertainty regarding specific numeric criteria.” The report also recommends additional measures to improve water quality and restore natural habitat, noting that protection of public trust resources “cannot be achieved solely through flows. Best available science supports that it is important to directly address the negative effects of other stressors, including habitat, water quality and invasive species, that contribute to higher demands for water to protect public trust resources.”

This report is important because it will be used in the planning process for the Delta Plan and BDCP will use this data as a guide in its work. It is a bit of a conundrum because the state water board is required to impose the new flow standards on any new Delta water conveyance facility, yet the flow criteria it adopted is limited to protecting the aquatic needs of the Delta. The criteria do not consider social, economic, land use or business impacts.

### ***Important Package Elements***

Although governance is the key to the water policy, other parts of the package are very important. The Governor’s goal for reducing water usage 20 percent by 2020 is codified. Urban water agencies have a choice of how to achieve the

## Summary of Water Policy Bills

\*Summary Provided by California Department of Water Resources

**Delta Governance. SBX7 1 (Simitian; D-Palo Alto)** establishes the framework to achieve the co-equal goals of providing a more reliable water supply to California and restoring and enhancing the Delta ecosystem. The co-equal goals will be achieved in a manner that protects the unique cultural, recreational, natural resource and agricultural values of the Delta.

**Groundwater. SBX7 6 (Steinberg; D-Sacramento)** requires local agencies to monitor the elevation of their groundwater basins to help better manage the resource during normal and drought condition years.

**Water Conservation. SBX7 7 (Steinberg; D-Sacramento)** creates a framework for future planning and

actions by urban and agricultural water suppliers to reduce California's water use. For the first time in California's history, this bill requires the development of agricultural water management plans and requires urban water agencies to reduce statewide per capita water consumption 20 percent by 2020.

**Water Diversion and Use/Funding. SBX7 8 (Steinberg; D-Sacramento)** improves accounting of the location and amounts of water being diverted by recasting and revising exemptions from water diversion reporting requirements under current law. In addition, this bill appropriates existing bond funds for various activities to benefit the Delta ecosystem and secure the reliability of the state's water supply, and to increase staffing

at the State Water Resources Control Board to manage the duties of this statute.

**Safe, Clean and Reliable Drinking Water Supply Act of 2010. SBX7 2 (Cogdill; R-Modesto)** authorizes an \$11.14 billion general obligation bond proposal that would provide funding for California's aging water infrastructure and for projects and programs to address the ecosystem and water supply issues in California. The bond is comprised of seven categories, including drought relief, water supply reliability, Delta sustainability, statewide water system operational improvement, conservation and watershed protection, groundwater protection and water quality, and water recycling and water conservation.

reductions, either individually or as a region. They may impose a 20 percent reduction in baseline daily per capita use; use a combination of efficiency standards for residential indoor and outdoor uses and commercial, industrial and institutional uses; meet a 5 percent reduction from the DWR targets for an applicable region; or opt for a method that the department was to develop by December 2010.

Agricultural water districts also must achieve reductions. For the first time, agricultural users must measure the volume of water used. They also must account for the volume used in their pricing structure. Those unable to make the reductions are ineligible for state grants and loans. The new conservation goals will require business and agriculture to invest more in water-efficient practices and technologies or be priced out of the market. Agricultural and urban water districts are in the process of implementing plans to meet the goal.

To help the DWR better track water diversions, diverters must file statements with the department. The new law eliminates an exemption that previously applied to diverters within the Delta—an estimated 1,800 municipal, agricultural and industrial diversions believed to divert 5 percent of the Delta's freshwater flows. Funding was provided to increase water rights enforcement positions. Although it was agreed that increased fines and penalty provisions would be addressed in 2010, that did not occur because the legislation contained provisions adversely compromising current water rights law.

### **Bond Funding**

The final piece is an \$11.14 billion water bond originally targeted for the November 2010 ballot, but delayed by

legislative action until 2012. Bond proceeds would fund numerous projects around the state, including statewide storage and transfer improvements; Delta sustainability projects; watershed conservation and protection; water recycling and conservation; and water supply reliability projects for urban users (see map).

It is important to note that the bond does not contain any funding for construction of any new facility that conveys water directly from the Sacramento River to the SWP or the CVP pumping facilities in the south Delta.

### **Next Steps**

Work is underway by the Delta Stewardship Council and the Delta Protection Commission. The council has three workgroups in place that are open to the public—Risk Reduction, Governance and Implementation, and Communication. The Delta Protection Commission in its reconstituted format is charged with developing a regional economic sustainability plan to inform the Delta Stewardship Council's policies regarding the socioeconomic sustainability of the Delta region.

The commission's original mission was to develop a plan to preserve and enhance the overall quality of the Delta environment, balance conservation needs with orderly land use development and improve flood protection. The commission must appoint at least one advisory committee to provide recommendations regarding the diverse interests within the Delta.

### **Role for Business**

Businesses should actively pursue an appointment to

ensure that adequate representation exists on the advisory committee(s). It is exceedingly important because one of the tasks of the commission is to examine the potential expansion of, or change to, the primary zone of the Delta.

The precise boundary lines of the primary zone include land and water areas as shown on a map titled "Delta Protection Zones" on file with the Secretary of State. Generally it is land and water areas in the Delta not within urban limit lines or a sphere of influence of a local government's general plan or currently existing studies as of January 1, 1992. The primary zone has many more land use restrictions than the secondary zone.

It is crucial that business participates and interacts with the Delta Stewardship Council at all its meetings and its workgroups and advisory committees. The same holds true for the Delta Independent Science Board, whose mission is to provide the best possible unbiased scientific information to inform water and environmental decision-making in the Delta. Members of the business community should voice their advice, ideas and concerns at every opportunity.

Most important, the council is required to consider including the BDCP in the Delta Plan. BDCP is charged with developing a plan to restore the Delta's failing ecosystem while assuring a reliable water supply system for California, including evaluating the potential of an alternate conveyance system around the Delta. The council's attitude is extremely important to how the Delta Plan evolves. Participation with the BDCP is integral to business input into the process and the Delta Plan. When the draft BDCP document is released for public review, the agricultural and business community must submit comments.

#### ***Bond Passage Essential***

Passage of the water bond is key to the success of the overall water package. The bond not only provides funds for increased storage, it also provides funds for projects that lead to more reliable sources of water. For instance, cleaning up groundwater provides more local supplies. Increased recycling also increases the amount of water available for drinking water. Substituting recycled water for outdoor usage on landscaping, golf courses, parks, etc. could provide major water savings.

Storage is needed to control the amount and timing of water flowing through the Delta to meet endangered species requirements. It also provides the opportunity to store more water in wet years to offset needs in drier years. It may offset cutbacks already in place for the Delta smelt and salmon.

Although the bond has been delayed until 2012, it is critical that the need for the funding stay in the forefront of the voters' minds. The specter of a major disaster in the Delta cutting off water supplies to 23 million people in the south and critically damaging agriculture and the ecology of the Delta estuary wasn't enough motivation to move the bond in 2010. It is hoped the economy turns around enough for a successful 2012 bond. Meanwhile, business

and agriculture must continue to vocally support the need for the bond and resist any attempts to amend it. This water bond has funding for long sought-after dams and reservoirs with a continuous appropriations clause eliminating the need to approach the Legislature each year for funding.

#### ***Water Rights***

The issue of water rights will undoubtedly be raised again. In order to move the water package, onerous water rights language was stripped out. The proposed provisions would have given the State Water Resources Control Board and its staff sweeping new powers to initiate their own challenges to any individual's water rights and diversions, even when there was no complaint of harm. The authority was thought to set the board up to be both the judge and jury on any challenge. It would be costly for private individuals to litigate such a challenge. Those very provisions popped up in a couple of bills in the 2010 legislative session, but failed passage. It is almost certain that the water rights issue will be back in 2011. Landowners, agricultural entities and businesses must be engaged to protect their water rights.

#### **CalChamber Position**

The California Chamber of Commerce supports a comprehensive solution to California's chronic water shortage. It is vitally important that all Californians have an adequate and reliable source of water while safeguarding the environment. Developing additional water supplies and conveyance facilities can no longer be postponed without subjecting the state to long-term economic damage. One serious earthquake or a series of Delta levee failures could leave millions of people and businesses without a water supply for the foreseeable future.



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