



THE SECRETARY OF THE INTERIOR
WASHINGTON

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MEMORANDUM FOR THE PRESIDENT

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SUBJECT: Update on California Water Issues

Background

This memorandum will update you on key developments concerning ongoing water operations in California, as well as the development of long-term strategies to improve water supply reliability and environmental protections.

California's State Water Project (SWP) and the Bureau of Reclamation's Central Valley Project (CVP) are among the largest water conveyance systems in the world, delivering about 9-10 million acre-feet of water in non-drought years to farms, cities, and in support of environmental needs throughout the State. Since most precipitation falls in the northern part of the State and most water use is in the southern part, the combined systems must convey vast amounts of water each year through the San Joaquin-Sacramento Delta into Federal and State canals that carry the water to the agricultural Central Valley and metropolitan areas in Southern California. Over time, many factors including water operations have caused a serious decline in the world-renowned Bay-Delta ecosystem and the salmon and other fish populations dependent on it. In recent years, a number of scientists and water managers have concluded that, particularly in view of projected sea level rise and other climate impacts affecting water supplies, the Federal and State water conveyance system through the Delta must be upgraded or modified to ensure reliable water supplies and help restore a healthy Bay-Delta ecosystem.

To meet these twin goals, Governor Brown has proposed constructing a major new infrastructure project consisting of two large-capacity tunnels running from north of the Delta to the Federal and State aqueducts south of the Delta. This project, known as "Cal WaterFix" (CWF), would provide an additional means of pumping water from north to south which would enhance the flexibility and reliability of the SWP and CVP and help restore some of the natural outflow of water through the Bay-Delta. Once permitted, CWF would likely take 10-15 years to construct. Accordingly, there continues to be great attention focused on current water operations and the impact of environmental regulations under the Endangered Species Act (ESA). For that reason, we would expect that there will be continued attempts by members of Congress to legislate in this area, although there does not appear to be much consensus among California's congressional delegation. Senator Feinstein has worked closely with the Department of the Interior (Interior) to develop legislation that would improve water supply while not amending the ESA. The House of Representatives, however,

continues to propose legislation that would override existing environmental protections under the ESA.

May – August 2016 Operations of the Central Valley Project

While hydrologic conditions have improved somewhat during the current year, California continues to feel the effects of this historic drought. Consequently, operation of the CVP and SWP this summer has required a highly complex balancing act to preserve the water allocations issued last spring while meeting the legal requirements of National Oceanic and Atmospheric Administration (NOAA) and the Fish and Wildlife Service (FWS) to protect highly endangered Delta smelt and winter-run Chinook salmon. Complicating matters is the continued downward trajectory of the endangered Delta smelt, whose population last year hit a record low level, and is down an additional 90 percent this year. Some experts are opining that the fish may be well on its way to extinction. Endangered winter-run Chinook are in a similarly perilous state since low water levels and excessive temperatures on the Sacramento River in 2014 and 2015 resulted in the loss of over 90 percent of the population both years, underscoring the urgent importance of preserving this year's salmon run.

To maximize salmon protections, NOAA requested Reclamation reduce releases from Shasta Reservoir in the early summer to preserve large amounts of cold water in storage to dedicate for use in maintaining temperatures in the Sacramento River during the late summer. With respect to Delta smelt, FWS asked Reclamation to acquire hundreds of thousands of acre feet of water to release to increase environmental flows through the Delta in the hope of boosting Delta smelt populations. The salmon protective actions have been successfully implemented this summer while the Delta smelt actions were only able to be partially implemented based on the water available for acquisition. Both of these actions put pressure on the water supplies available for agricultural and other purposes resulting in ongoing concerns over constrained water allocations in California's Central Valley.

Reinitiation of Consultation for Long-Term Operations

The rapid decline of the Delta smelt prompted two significant recent actions. First, in early July, after discussion with Interior, the California Natural Resources Agency released the Delta Smelt Resiliency Strategy (Strategy). The purpose of the Strategy is to help sustain Delta smelt populations over the near term through a number of actions which include partnering with Reclamation to provide substantial additional environmental flows in spring/summer of 2017 and 2018, and a collaborative and transparent science process to support improved habitat conditions for the smelt. Second, Reclamation and California's Department of Water Resources requested reinitiation of consultation under the ESA on the effects of water project operations by the CVP and SWP on both Delta smelt and winter run chinook salmon. The reinitiation process will likely lead to new or amended biological opinions that will increase protections for these species. The current schedule calls for completion of this consultation by early spring of 2018, but it is acknowledged that such a schedule is very ambitious. As noted, the Strategy is intended to improve ecological conditions for the fish while the ESA consultation process moves forward and employs the best-available science. The timeframe being contemplated should allow the new Administration time to establish itself before new biological opinions are issued that could lead to further reductions in water availability south of the Delta.

Cal Water Fix

The CWF is a major civil works project (estimated cost of \$16 billion) that requires a complex set of analyses in order to proceed under the National Environment Policy Act (NEPA) and the ESA. The Department's goal has been to complete these analyses, which have been underway since 2007, before the end of this Administration. However, a number of complications in the past several months such as the declining status of endangered fish, as well as other Federal and State issues, have combined to make it unlikely that the necessary reviews will be completed during your Administration.

It is likely that the Governor will assert that Interior failed to adequately and timely address concerns over the declining Delta smelt populations, which, in his estimation, is the main reason the schedule for completing Federal review of Cal Water Fix is being extended beyond January 2017. While it is correct that the need to address declining Delta smelt populations have created scheduling complications, there are an additional number of technical, legal, and state regulatory issues that have added to the complications. Requests by the State of California have also had impacts on the schedule. Most notably, the State rejected a proposal by Interior to complete our permitting work by the end of 2016 by simply focusing the analysis on the construction of CWF. Instead, the State has insisted that the analysis include future water operations, which is much more complicated. Overall, the issues need to be addressed in a manner to ensure a credible and legally defensible decision is rendered given the certainty of litigation that will ensue.

Despite these difficulties, as a result of discussions within the last couple of weeks among senior Federal staff and the Governor and his team, it appears there is general agreement on proceeding with a schedule that will conclude the NEPA and ESA processes being carried out by both Interior and NOAA towards the end of March 2017. While the State does not view such a schedule as optimal (i.e., within your Administration), it does allow for completion of the analysis in time to be used by the State to address State law requirements that are also critical to the permitting process.

As a final matter, we would note that high-level State officials have repeatedly represented that the State would disengage from other priority initiatives (e.g., Salton Sea restoration which is closely associated with Colorado River drought planning, as well as the Desert Renewable Energy Conservation Plan) because of their concerns that the Administration is not completing work on CWF in a timely manner. Although the State has recently softened its rhetoric, the message to Governor Brown should he raise these other initiatives is that the Administration and Interior will continue to press forward on all of these important issues and that when California disengages from these other initiatives, they are negatively impacting their own interests. Moreover, your Administration has provided a substantial amount of high-level attention to CWF and has worked closely with the State on a strategy that will support the Governor's goals, even if the timeline is not optimal.