

Policy Statement from Director Mark Cowin of the California Department of Water Resources to the Water Board

July 29, 2016

Mark Cowin, Director, California Department of Water Resources

Thank you for the opportunity to help frame this important proceeding. While I do not envy your role over the next weeks and months, I am grateful for the open and rigorous process you have established to consider our petition.

Throughout the proceedings to come, as you hear from people concerned about the potential impacts of three new diversion points, I ask you to keep in mind that we are committed to meeting our obligation under the standards you impose to protect beneficial uses of water – and we have a proven track record of doing so.

I believe that simple point is the most important takeaway from our testimony in the first part of this proceeding.

There is a second point I want to make, also important.

No matter what standards you set, no matter what future actions are needed to protect native fish, no matter how climate change alters our weather patterns and landscape, it will be easier to protect all beneficial uses of Delta water with new infrastructure.

If we cannot modernize our Delta water conveyance system, we will miss opportunities to capture and store water at times of high flow, as we saw this winter. Local water districts will face increasing risk of shortages. We will hobble other efforts to assist recovery of native fish species. Gradually, we will strand the billions of dollars that state and federal ratepayers and taxpayers have invested in the State Water Project and Central Valley Project.

We understand that a project of this magnitude raises concerns. The water quality standards and water right conditions you establish are vital in addressing these concerns - and so is our record of compliance with those standards. Together, your standards and our compliance record provide assurance that all beneficial uses of water in the Delta are balanced.

My department manages 21 reservoirs and 700 miles of canals and pipelines to serve large regions of California. You oversee the water rights that allow us to store and deliver water. The most complicated aspect of our relationship as regulator and regulated is in the Delta. Implementation of your Bay-Delta Water Quality Control Plan, through Water Rights Decision 1641, established the flow and water quality standards assigned to the federal and

state water projects for the Delta. Since the objectives for D-1641 were put in place 21 years ago, our project and the federal Central Valley Project have met the standards 98.5 percent of the time through 2015. When the prior Decision 1485 was in place, the federal and state projects met the standards 99.5 percent of the time.

You are working now to update the requirements in the Bay-Delta Water Quality Control Plan. When you establish new standards, we will meet our assigned obligation, just as we have met our obligations under the previous standards for nearly the last four decades. We will meet our assigned obligation regardless of whether California WaterFix advances, but I assure you, meeting those standards will be easier with the flexibility provided by additional water project intakes.

California's climate is changing. If trends continue as expected, the Sierra snowpack will shrink substantially, sea levels will rise to levels that make operation of our existing south Delta intakes difficult, and shifting storm patterns will test Delta levees with higher tidal surge and outflow. Additional water project intakes along the Sacramento River would give us flexibility to better cope with changing hydrology and Delta hydraulics.

In addition, our work with federal and state fishery agencies convinces us that a new configuration for Delta conveyance, along with effective fish screens, will minimize entrainment, impingement, and altered flow patterns that can harm fish. The new intakes we propose, if approved, would be located upstream of habitats used by certain protected species, and the screens would prevent entrainment of even the juvenile stages of these species.

You will hear in coming months from those who believe our proposed project will harm other legal users of water or fish and wildlife in the Delta. Modeling data may be offered as evidence. As you consider these claims, I hope you will bear this in mind: Models do not run water projects. Experienced, human operators run water projects. That human factor allows us to stay in compliance with water quality standards nearly all of the time. Models are a useful tool to analyze changes in a variety of factors that affect project operations. But even the advanced models in use today are not capable of simulating the full extent of the complexity of the watershed or simulating the real-time human response necessary to deal with that complexity.

Only in extraordinary circumstances have we exceeded the water quality standards you set. And rarely if ever do we use our full capacity to divert water. None of that would change with California WaterFix. To believe otherwise is to ignore the factual record of water project operations. With our petition, we seek not to expand our water rights, but only to change the place from which we divert water.

As with the modeling of potential impacts, we understand the limitations of the theoretical. We are committed to putting in place the monitoring, research, investments, and communication we need to adapt to future conditions that are clouded by climate change. We understand the potential for our proposal to generate new complexities. We are committed to adaptive management that is transparent and built on collaborative science. We will submit our adaptive management proposal to you for review. And you will always have the authority to influence the outcome of adaptive management and revise standards for protecting the Delta as you see fit.

We have reached the stage where we need you to hear the testimony, weigh the evidence, and find a way within our water right system to accommodate our request to modernize Delta conveyance so that we can better protect native fish and guard against both sudden and gradual loss of our current conveyance capacity.

Throughout this proceeding, I hope you will bear in mind the fundamental respect my Department holds and has demonstrated for your authority and critical role in protecting all water users.

Thank you for your time and consideration.

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