



Agenda Item No. 5.  
Meeting Date: November 1, 2017  
Resolution: ( ) Yes (X) No

**AGENDA DOCKET FORM**

**SUBJECT: CALIFORNIA WATERFIX UPDATE**

**SUMMARY:** The purpose of this report is to provide the Board with the latest in an ongoing series of updates on recent activities for the California WaterFix project.

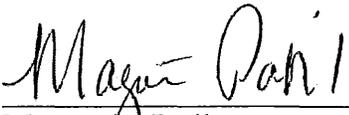
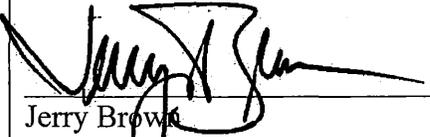
The District continues to work with the Bureau of Reclamation (Reclamation) and other Central Valley Project (CVP) contractors on federal financing and cost allocation for the WaterFix project and potential effects to CVP contract supply allocation. These issues remain active as they were not addressed in the March 2016 Agreement for Mitigation of Impacts to Contra Costa Water District from Construction and Operation of Bay Delta Conservation Plan / California WaterFix (Settlement Agreement) with the California Department of Water Resources (DWR).

DWR and Reclamation continue to make progress on regulatory processes and permit applications for the WaterFix project. In June 2017, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service issued biological opinions regarding the effect of the project on Federal Endangered Species Act listed species. In July 2017, the California Department of Fish and Wildlife issued a permit for the project pursuant to the California Endangered Species Act, and DWR certified the final environmental analysis for the WaterFix project and signed the Notice of Determination (NOD). With finalization of the NOD and associated decision documents, DWR has approved WaterFix as the proposed project under the California Environmental Quality Act. In response, at least 18 lawsuits have been filed collectively by 80 petitioners, including the City of Antioch, City of Brentwood, East Bay Municipal Utility District, all five Delta counties, Restore the Delta, Sierra Club, numerous Sacramento Valley and American River water agencies, and fishing industry associations.

*(Continued on page 2)*

**FISCAL IMPACT:** The District is not a participant in the California WaterFix project. The Water Resources Department's FY18 operating budget includes sufficient funding for staff time to support the District's role in reviewing the California WaterFix activities and permits as they are released.

**RECOMMENDED ACTION:** Review and comment on the California WaterFix update.

 Marguerite Patil Special Assistant to the GM		 Jerry Brown General Manager
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## AGENDA DOCKET FORM

### **SUMMARY (Continued from Page 1):**

Reclamation has not issued the equivalent federal decision, a Record of Decision (ROD), which would include certification of the environmental analysis under the National Environmental Policy Act. Reclamation may delay the ROD until additional permits are completed that will further define the operation of the project.

In July 2017, the State Water Resources Control Board (State Water Board) completed the first part of a hearing on whether the State Water Board should approve a joint petition filed by DWR and Reclamation to add three new points of diversion to State Water Project (SWP) and CVP water right permits. The City of Antioch and the City of Brentwood have both protested the joint petition and are involved in these hearings. Part 1 of the hearing included evidence on the WaterFix's potential effects on other legal users of water, including municipal, industrial, and agricultural users. Part 2, which will commence on January 18, 2018, will include the potential effects on fish, wildlife, and recreational uses. Following the completion of Part 2, the State Water Board will make a determination on the joint petition. The decision may include additional terms and conditions that will be added to DWR and Reclamation's water rights, potentially affecting the operation and delivery capability of the SWP and CVP. For this reason, Reclamation has stated that it may delay the ROD until after the State Water Board decision.

On a parallel track to the permitting processes, DWR has been laying the groundwork for WaterFix project funding and financing. In July 2017, DWR initiated a validation action in Sacramento County Superior Court, which seeks a judicial determination that DWR has authority to issue revenue bonds to pay for the WaterFix project facilities as an integral part of the SWP. The marketability of WaterFix bonds to private investors may be affected by judicial challenges; therefore, SWP contractors are discussing the formation of a joint powers authority (JPA) for direct placement sales of WaterFix bonds until resolution of such legal challenges. Under this approach, the JPA would purchase WaterFix bonds directly from DWR, and to finance its purchase of WaterFix bonds, the JPA would issue its own bonds.

In a letter dated September 15, 2017, Reclamation Regional Director David Murillo informed the CVP contractors that Reclamation currently lacks the legal authority to fund WaterFix construction and will not participate in the construction of WaterFix and that the WaterFix will not be a CVP facility. Reclamation's current approach would prevent financial impacts to the District. The District, together with other CVP contractors, continues to seek firm assurances from Reclamation that the WaterFix will not affect CVP water rates or water supply allocations.

At DWR's request, many water agencies that receive water from the existing south Delta export facilities have taken board action in support of the WaterFix project, ranging from letters of conditional support to board resolutions committing an agency to a funding contribution based upon their SWP contract amount. Santa Clara Valley Water District (SCVWD), both a CVP and SWP contractor, has indicated a desire to participate and move both their CVP and SWP supply through the WaterFix project. As of October 25, SCVWD is the only CVP contractor that has indicated a desire to participate in the WaterFix project. The agencies who have taken a support position represent approximately seven billion dollars in project funding, which is 42% of the 17 billion dollar estimated project cost. There is widespread

speculation that DWR will be working with the participating agencies to reshape the project to address this shortfall in funding.

If the California WaterFix project is built, even if it is reshaped or downsized, the District's Settlement Agreement with DWR provides legally binding and enforceable steps to mitigate any water quality impacts and construction-related impacts to the District.

### **SCHEDULE**

The schedule for the WaterFix project is subject to change.

January 2018	Water Rights Hearing Part 2 begins
Late 2018	Permitting completed
2018	Groundbreaking