



Delta Counties Coalition

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"Working together on water and Delta issues"

June 11, 2018

The Honorable Holly Mitchell, Chairwoman
Joint Legislative Budget Committee
State Capitol, Room 5019
Sacramento, CA 95814

The Honorable Phil Ting, Vice Chairman
Joint Legislative Budget Committee
State Capitol, Room 5019
Sacramento, CA 95814

Re: Request to Postpone Joint Legislative Budget Committee Hearing on State Water Project Contract Extension

Dear Chairwoman Mitchell and Vice Chairman Ting,

The Delta Counties Coalition (comprised of the Counties of Contra Costa, Sacramento, San Joaquin, Solano and Yolo) requests that the Joint Legislative Budget Committee ("Committee") postpone scheduling a hearing regarding the California Department of Water Resources' ("DWR") proposed extension of the State Water Project ("SWP") contracts. This ensures appropriate Legislative oversight of the proposed extension of the SWP contracts, particularly given their relation to the California WaterFix project ("WaterFix").

On May 11, 2018, DWR requested that the Committee schedule a hearing regarding the proposed SWP contract extension, which would extend the terms of the existing SWP contracts by 50 years, until the year 2085. According to DWR's website, the purpose of the contract extension is to lower borrowing costs by providing a longer term over which to "finance SWP capital expenditures."

There is little question that the primary impetus for this contract extension is the California WaterFix project, which is estimated to cost SWP contractors tens of billions of dollars in the coming decades.

DWR claimed that the contract amendment is unrelated to the California WaterFix project, but WaterFix is plainly the largest capital improvement to the SWP under consideration. Indeed, some SWP contractors asserted that under the current SWP contracts, SWP contractors must either pay for the California WaterFix project, forfeit their SWP contract, or find another SWP contractor willing to pay their share of the costs of constructing and operating WaterFix. Several SWP contractors, including the Kern County Water Agency, filed answers in DWR's WaterFix bond validation lawsuit (Sacramento Superior Court Case No. JCCP 4942) challenging DWR's authority to impose the costs of WaterFix without their agreement to modifications of SWP contracts.

Specifically, we request that DWR provide the information required by Section 147 of the Water Code, which is provided here for your reference:

- (a) On or before January 10, 2010, and annually thereafter, the department shall prepare and submit to the chairpersons of the fiscal committees of the Legislature a report with regard to the budget for the State Water Resources Development System.
- (b) The department shall include in the report all of the following information:
 - (1) A description of the expenditures made, or projected to be made, as applicable, on behalf of the State Water Resources Development System, by program and fund, and of the total revenues expended, or projected to be expended, as applicable, for that system, including each fund source.
 - (2) A description of the positions within the department that carry out functions related to the State Water Resources Development System, and the total number of those positions.
 - (3) A description of any funds, other than funds generated by the State Water Resources Development System, that are expended, or projected to be expended, as applicable, for the State Water Resources Development System, including those funds used for cost-sharing purposes.
 - (4) An itemization of all contracts related to the Bay-Delta Conservation Plan financed, or projected to be financed, as applicable, in full or in part with funds generated by the State Water Resources Development System, including the dollar amount of those contracts and a brief description of the purposes of those contracts.
- (c) The department shall include in each report information relating to three fiscal years that include the two completed fiscal years that immediately precede the year in which the report is due, along with applicable information for the fiscal year in which the report is due. The department shall prepare the first report required under subdivision (a) for the 2007–08, 2008–09, and 2009–10 fiscal years.

(Added by Stats. 2009, 4th Ex. Sess., Ch. 11, Sec. 27. Effective July 28, 2009.)

Equally important, DWR is currently negotiating additional amendments to the SWP contracts regarding the WaterFix. Those amendments would allow permanent transfers of water between SWP contractors, to allow urban SWP contractors like the Metropolitan Water District of Southern California to permanently purchase water from agricultural SWP contracts like the Kern County Water Agency in exchange for paying more of the costs of WaterFix. Piecemeal analysis of these contract amendments is inefficient and undermines appropriate Legislative oversight.

Once the Committee's oversight hearing is held, DWR is legally authorized to finalize the SWP contract extension, potentially foreclosing additional legislative oversight regarding the terms of these contracts. (See Cal. Water Code § 147.5.) We, therefore, request that the Committee seek additional written information from DWR in advance of holding a hearing on the SWP Contract extension, and delay holding this hearing until the completion of the DWR contract amendments relating to WaterFix, in order to ensure adequate legislative oversight of the SWP and WaterFix.

On May 30, 2018, Assembly Members Eggman and Frazier, as a follow-up to the recent oversight hearing regarding WaterFix, sent a letter to DWR Director Karla Nemeth requesting specific information regarding WaterFix and related matters (attached). It is imperative that the Committee oversight hearing regarding the contract extensions take place after the information requested in

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that letter is received and reviewed by Assembly Members Eggman and Frazier and to their satisfaction.

The DCC concurs with the points made by the Natural Resources Defense Council and others in their May 18, 2018 letter to the Joint Legislative Budget Committee (attached). Thank you for your attention to this matter.

Sincerely,



Don Nottoli
Supervisor, Sacramento County



Skip Thomson
Supervisor, Solano County



Karen Mitchoff
Supervisor, Contra Costa
County



Oscar Villegas
Supervisor, Yolo County



Chuck Winn
Supervisor, San Joaquin County

Attachments

cc: Assembly Member Eggman
Assembly Member Frazier